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Economic Law in the United Kingdom.

Its Development from 1919 to 1964.

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to the City University.

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DECLARATION

Section B of Part I form the basis of a paper presented to the 8th Socio-Legal Conference at the University of Birmingham on 26th March 1976. In a revised form it was published as State Intervention in the Inter-War Period: The Special Areas Acts 1934-7. (1976) British Journal of Law and Society, p. 175.

ABSTRACT

Although recognition of the concept of economic law as a basis for classification in relation to the United Kingdom legal systems has been mooted the concept remains largely unrecognised. Against this background our objectives in this thesis are to systematise the development of economic law in the United Kingdom between 1919 and 1964 and to contribute towards the study of the wider relationships between law and economic policy through the provision of an explanation of its emergence and development. In the fulfillment of the latter purpose our focus is on the relationship between economic circumstances and political perspectives. This focus has two aspects: firstly the depiction of the background of economic circumstances and economic policies to the enactment of economic legislation and secondly, as a guard against the uncritical acceptance of profferred explanations, the formulation and testing of specific hypotheses as explanations of particular enactments.

We conclude that although the development of the economy may be traced in terms of economic law, economic law itself cannot be explained solely in terms of economic circumstances or political perspectives but that account must be taken rather of both in its explanation. In relation to the level and area of intervention in the economy we identify in addition to the perspectives of political parties and governments those of industry as crucial. The role of political perspectives is not, however, confined to determining what governments do but also extends to the way in which it is done. During the period covered by the present research this is reflected in the emphasis placed on short-term factors and on proceeding by agreement which we

argue has led to a distinctive pattern of reactive, consensual and incremental statutory development. Finally we argue that the form and content of economic legislation cannot be explained apart from the administrative and drafting experience derived from preceding enactments. This combination of political perspectives, administrative and drafting experience we suggest may be termed the legislative perspective of a government.

1. Introduction: the Scope and Aims of the Research

Introduction

Between the wars Professor H.W. Robinson, an economist suggested the use of the term "economic law" as appropriate to the description of the law that is the result of the conscious application of economic theory. "It is clear," he wrote referring to the major political debate of the time on the role of government in the economy, "that whatever the outcome of the controversy concerning planning, the legal system will have to be designed in the closest possible alignment with economic theory and this "economic law" as it might be called will occupy a central position in the institutional framework whether we "plan" for laissez-faire or for a planned economy."[1] During the last decade Professors C.M. Schmitthoff and T.C. Daintith have, drawing on the traditions of Continental legal thought, separately considered the questions of the recognition and definition of the concept of economic law in the United Kingdom.[2] However apart from some evidence of a widening of interest in the relationship between law and the economy the suggestions and conclusions of these writers have, except inter se in the case of the latter two, engendered no response. In marked contrast with Continental legal systems where the concept is firmly established although there is no unanimity as regards its definition, economic law remains largely unrecognised as an autonomous branch of law in the United Kingdom.[3]

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1 H.W. Robinson, Law and Economics 2 [1938] Modern Law Review p. 257 at p. 262.

2 C.M. Schmitthoff, The Concept of Economic Law in England [1966] Journal of Business Law p. 309. T.C. Daintith, Some Characteristics of Economic Law in the United Kingdom in Rinck, ed., Begriff and Prinzipien des Wirtschaftsrechts [1971] p.21, Public Law and Economic Policy [1974] Journal of Business Law p. 9.

3 An exception is H. Calvert, Social Security Law [2nd ed., 1978], in which substantive public law is divided into economic law and welfare law.

The present research is a product of an interest in the concept of economic law and in the more general question of the relationships between law and economic policy. It is therefore intended as a contribution to the further study of the concept of economic law in relation to the United Kingdom. In this first chapter we shall consider the concept with a view to arriving at a preliminary definition of it and establishing the aims of our research.

The lack of interest generated in the concept raises, however, the preliminary question of the justification for its further study. An initial justification is suggested by the social and legal significance of its subject matter. The social significance of the legislation to which it relates lies in the relationship between it and the phenomenon of State intervention in the economy in the furtherance of economic policies. At one level that relationship is shaped by the absence within government of inherent executive powers which means, as Professor Daintith explains, that there are "few economic decisions that can be implemented without the legislatively expressed consent of Parliament."[4] The rules that the common law can be altered only by legislation, that taxation can only be levied with the consent of Parliament and that revenue may only be expended for the purposes and in the amounts approved by Parliament ensure that "most phases of economic policy receive legislative approval."[5] The necessity for legislation in the implementation of most aspects of economic policy means therefore that it constitutes an index of the level and scope of state intervention in the economy and that its study forms an important part of the study of state intervention.

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4 Public Law and Economic Policy, op.cit., pp. 13-14.

5 ibid., p. 14.

In addition the relationship between legislation and the implementation of economic policy has a dual aspect; the regulation of the behaviour of the addressees of policies and secondly, the conferment of powers upon public authorities. While the significance of the former is readily assumed the latter is of equal importance. As Feeley emphasises in an argument which presumes some of the characteristics of the legislation with which we shall be concerned, "the laws which define and give legitimacy to official public positions and grant some degree of open-ended discretion are important aspects of legal behaviour. They seem to me to be of particular concern precisely because they grant authority to engage in acts of great importance but also of extremely low visibility."[6]

This latter aspect, the conferment of powers upon public authorities, and the problems which their scope and exercise pose for the control of governmental activity constitute the primary legal justification for the study of economic law. In this sense its justification is the same as the justification for the study of public law generally. Academically, as regards the concept itself, its establishment and development is in conformity with the general trend within public law towards the separate development and treatment of particular areas of the relationship between the state and the individual which is exemplified by the emergence of subjects such as planning law, housing law and welfare law. Its systematisation is therefore important in that it provides a basis for the further study of the subject which through the detailed knowledge which it provides and the problems which it highlights may be expected to contribute towards the development of public law generally.

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6 M. Feeley, The Concept of Laws in Social Science: A Critique and Notes on an Expanded View, [1976] Law and Society Review p. 497 at p. 504.

A final, more immediately practical, justification for the study of the concept is suggested by an explanation for the contrast in the status of the concept on the Continent and in the United Kingdom. That contrast in status is in part attributable to a greater willingness within, for example, France and West Germany to seek judicial review of administrative action. That willingness may be fostered by the existence of principles such as that of economic freedom enshrined in Article 2(1) of the Grundgesetz and Article 844 of the Code Civile which may form the basis for a legal action but which have no counterpart in the United Kingdom. The comparative lack of opportunity for, or unwillingness to have recourse to, litigation in the United Kingdom has prevented the development of interest in the subject within the legal profession and hindered its academic recognition and systematisation. In this respect the accession of the United Kingdom to the European Communities is of the greatest potential significance for not only is the classification of substantive community law as economic law generally accepted, but the establishment of a common market and the progressive approximation of member states' economic policies (which ultimately will cover all major areas of economic policy) provided for in Article 2 of the Treaty of Rome take place within a framework which ascribes a much greater substantive role to law in the formulation and implementation of economic policy than is commonly the experience in the United Kingdom. This is illustrated by the conferment on individuals of directly enforceable rights which national courts are obliged to protect. From the point of view of an individual aggrieved by executive action in the implementation of economic policy United Kingdom membership of the Communities may be expected to give a practical

impetus to the study of economic law. Moreover, considerations of the future development of the Communities have prompted the institution by the Commission of studies of the economic law of the member states with a view to its development in a manner compatible with the attainment of Community objectives.[7] The questions of the compatibility of domestic economic law with Community Law and its implications in terms of the future development of the Communities constitute, therefore, practical justifications for its further study.

(i) Definition

Having offered some justifications for the further study of economic law how do we define it for the purposes of our research? In this process of definition we are not constrained by the existence of an accepted definition of our subject matter. As Professor Daintith observed in 1970 "there is not now in the United Kingdom, any more than there was in 1966, any scientific definition or established body of doctrine or jurisprudence. One who writes on economic law in this country must therefore create his subject as he goes along, by an essentially arbitrary process of definition and selection of material, in which much will depend on his general view of law."[8] Although that observation remains accurate today a starting point is offered by existing definitions. We shall begin by examining Continental definitions before turning to the definitions offered in the United Kingdom by Professors Schmitthoff and Daintith.

Continential writers offer a range of widely varying definitions of economic law which are classifiable into two broad categories. The first category comprises all definitions which are wide or broad.

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7 Study Series Competition - No. 20. Harmonisation of Legislation, T.C. Daintith, Report on the Economic Law of the United Kingdom (1974), 13 [1976] Common Market Law Review No. 2. The Economic Law of the Member States in an Economic and Monetary Union.

8 Some Characteristics of Economic Law in the United Kingdom, op.cit., p. 21.

For definitions within this category economic law constitutes the conceptual basis for the reorganisation into a comprehensive whole of existing branches of law such as criminal law or constitutional law insofar as they relate to economic activity. Champaud, for example, defines economic law as an emergent legal system which regulates the development and organisation of the industrial economy and which has as its central decision-making unit the enterprise or firm.[9] In similarly broad terms Farjat defines economic law as the law of the concentration or collectivisation of the means of production through the exercise of either public or private power.[10] The breadth of such definitions renders them unsatisfactory for our purposes. Our concern is with the implementation of economic policy through law rather than with the law which relates to economic activity. The latter concern encompasses potentially the entire legal system. Neither is it our desire to effect a reorganisation of existing material but rather to seek a definition of economic law which will enable us to distinguish it from other branches of law. "There does not seem to be any justification for cutting across the established categories of tax law, planning law and general criminal law, separating off their applications (and the applications of other branches of public law) to commercial, industrial and financial affairs and calling the resulting medley of rules economic law. So conceived, the subject can have no special characteristics beyond those shared by all branches of public law."[11]

The alternative category into which both United Kingdom definitions fall is that comprising narrow definitions. Their focus

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9 Champaud, Contribution à la definition du droit économique, Receuil d'Alloz 1967, Chronique 125.

10 Farjat, Droit Economique (1971).

11 Daintith, Some Characteristics of Economic Law in the United Kingdom, op.cit., p. 22.

is on the particular problems for the administration of law created by state intervention in the regulation of commerce, industry and finance. The use of the concept of economic law in this narrow sense as a basis for classification within the United Kingdom legal system was first suggested by Professor Schmitthoff in a paper presented to a conference on "The Concept of Economic Law" convened by Professor Rodiere of the University of Paris in 1966. He defined economic law as comprising "the regulation of state interference with the affairs of commerce, industry and finance."[12] In contrast to commercial law which is based on the contractual principle of autonomy of the parties' will "the underlying philosophy of economic law is economic dirigism, i.e., the idea that the parternalistic state may limit the autonomy of the parties' will in the public interest."[13] In scope the concept covered financial regulation, competitive economic regulation, prices and incomes regulation and consumer protection regulation. The second contribution to a United Kingdom definition of economic law was that of Professor Daintith in a colloqium convened by Professor Rinck in Gottingen in 1970.[14] He agreed with Professor Schmitthoff's broad characterisation of economic law as a law of public powers rather than of private rights but considered that the definition was insufficiently precise to distinguish economic law from the general body of public law. The key to the identification of economic law he considered lay in the purposes of the rules of public law and on this basis he defined it as "the totality of legal powers, processes and rules designed or adapted to facilitate the

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12 The Concept of Economic Law in England, op.cit., p. 315.

13 ibid.

14 Some Characteristics of Economic Law in the United Kingdom, op.cit.

achievement of national economic objectives."[15]

Of the two United Kingdom definitions that of Professor Daintith most closely mirrors our concern with the law that is a product of economic policy. In terms of this focus Professor Schmitthoff's definition is both too narrow and too broad. It is too narrow in that in concentrating on the coercive aspect of State intervention it excludes from consideration its facilitative aspect, the provision of inducements, which exists as an alternative to coercion in the attainment of policy goals and which falls within the scope of our concern. At the same time the definition is too broad in that it covers the entirety of state regulation of economic activity. On the basis that our concern is with the legislative consequences of the implementation of economic policies we shall exclude from the scope of our research restrictions which do not have a primarily economic rationale but, which are rather attributable to some other purpose. Thus, for example, we shall not consider the Prevention of Fraud (Investments) Act 1958, which Professor Schmitthoff treats as part of economic law relating to financial regulation, on the grounds that its primary purpose is the protection of investors rather than the furtherance of domestic economic policy. Clearly the difficulties associated with ascribing a uniform purpose to legislation (which we will examine) and the liability of the functions of policies to revision through time give rise to difficulties in the application of the suggested criterion. The Resale Prices Act 1964, for example, constitutes an

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15 ibid., p. 24.

important part of the development of the law relating to the control of competition which at the time of its inception was conceived of as having an economic purpose, securing the optimal allocational of resources, but the purpose of the Act itself was the extension of the protection afforded to consumers. Precedent, in the sense of the purpose attributed to the intial legislative intervention in an area, as well as purpose will therefore play a part in the determination of the ultimate scope of our research.

We therefore propose to adopt Professor Daintith's definition of economic law as "the totality of legal powers, processes and rules designed or adapted to facilitate the achievement of national economic objectives,"[16] which in terms of its emphasis on the purposive application of powers, processes and rules echoes Professor Robinson's suggested use of the term and which is in congruence with the common definition adopted as the basis of the study of the economic law of the Member States of the Communities instituted by the Commission; "the totality of legal rules promulgated in furtherance of economic policy." As to "national economic objectives" or the ends of economic policy we include both "global" ends such as the maintenance of a high and stable level of employment, the attainment of a favourable balance of payments, the maintenance of the value of sterling, the control of inflation and the attainment of a balanced rate of growth, the inter-relationships between which in terms of means and ends have, at different times, been differently treated by different, and sometimes the same, governments, as well as the more narrowly defined objectives of nationalisation or the promotion of the reorganisation of an industry

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16 ibid.

associated with industrial policy. Translating our adopted criterion into branches of legal classification we shall therefore exclude from our research, industrial law, consumer protection, planning law, environmental law, business law, company law, the law relating to the protection of industrial commercial and intellectual property and taxation (except insofar as it relates to the attainment of these objectives). In addition although they clearly fall within the scope of economic law as we have defined it we propose to exclude the law relating to agriculture and international economic law, except insofar as it concerns domestic economic policy, on the grounds of manageability.

(ii) Aims of the Research

Our research has two broadly defined aims; systematisation and explanation. The first aim, which stems from the inchoate nature of the subject and which forms a necessary preliminary to the subsequent generation and examination of specific problems, is to chart the development of economic law in the United Kingdom between 1919 and 1964. Several factors have influenced the choice of this period. The rapid dismantlement at the end of the first world war of the machinery of state intervention in the economy erected during its course symbolised the reassertion of traditional views of the proper role of the state in relation to the economy. 1919 therefore represents an appropriate starting point from which to examine the development of economic law. By contrast the end of the second world war saw the election of a government with a broad commitment to the planning and control of the economy. That commitment to the planning of the economy was rejected by the incoming Conservative Government but its periods of office ended with increased attempts

to assert control over economic events and its conversion to planning. 1964 has therefore been chosen for the end of our analysis because it is sufficiently distant from the present to enable an attempt at objective analysis and because it represents the end of a period, the second phase in the development of economic law, which began in 1945 and during which governmental attitudes to planning came full circle. Our analysis of economic law during this period will depict the main lines of its development and enable an assessment of the scope and extent of government involvement in the economy.

Our second aim is to provide an explanation of the emergence and development of economic law during this period. We have already explained the constitutional necessity for recourse to legislation in enabling state intervention in the economy and we will rather concentrate on the explanation of the area and form of intervention. The first focus raises the question of the extent to which economic law is simply a reflection of economic circumstances and more generally necessitates the exploration of the relationship between economic circumstances and political perspectives. The second focus requires the further analysis of political or legislative perspectives and of the relationship, in particular, between coercion and facilitation. Our aim is therefore to analyse the relationships between economic circumstances, political perspectives and the form and content of economic law.

(iii) Method

The research in its design reflects these aims. It is divided into two parts, the first part covering the period between 1919 and 1939 and the second part the period between 1939 and 1964. The first chapter of the second part (Chapter 9), which covers the second world war, links the two main phases in the development of

economic law, the inter-war period and the post-war period until 1964. Each part is divided into two sections. Our object in the first section of each part is to provide a historical synthesis which yields a coherent and systematic account of the genesis and functions of economic law in the period under examination. Although in the majority of cases the relationships between particular laws and the policies and circumstances which form their background may appear unproblematical, the danger that we may lapse into ex post facto rationalisation compels us to attempt to formulate and test specific hypotheses as explanations of the causation and functions of particular enactments. This is attempted at several stages during the research but it forms the specific focus of the second section of each part where its undertaken in relation to the Special Areas Acts and their successors.

Part I

The Development of Economic Law, 1919-39.

Section A.

Government and the Economy, 1919-39.

2. THE UNITED KINGDOM ECONOMY 1919-39

Introduction

Between 1919 and 1939 the character of the British economy underwent a radical transformation. That transformation encompassed a shift from a reliance upon the old basic exporting industries to new industries whose products were primarily aimed at the home market. What had been an essentially Victorian economy disappeared and was replaced by an economy similar to that which we know today. Our purpose in this section is thus to outline briefly some of the characteristics of that transformation, to elucidate their relation to our primary interest, the 'economic' legislation of this period and to lay the foundation for our examination of the Special Areas Acts 1934-7.

The change that took place, although radical in the sense that a crucial and necessary transformation was effected within a relatively short period, was the product of a long and continuous process. It did not have its origins in the inter-war period nor in any sense was it a result of the depression of 1929-31. Although a reaction to it, it was substantially the culmination of a process which had its roots in an earlier crisis, the Great Depression of 1873-96. "The difficulties of Great Britain began in the 1870's".[1] To understand why the change that took place was a crucial and necessary one, one must look at the intervening period. The thirty or forty year period from 1860 to 1890/1900 had seen the demise of British industrial hegemony and her relative decline in practically

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1. W.A. Lewis, Economic Survey 1919-39 (1949), p. 74.

all indicators of industrial performance. Three particular aspects of economic change, the development of technologically based industries, the extension of methods of mass production, directed towards home consumption and the growth of concentration illustrate this development. In all of these areas Britain had fallen noticeably behind her rivals. From being the leading and most dynamic industrial economy she had rapidly become the most sluggish and the most conservative.[2] Hobsbawm describes the explanation of this transformation as "the most crucial question of British Economic History".

A comparison of the basic exporting industries and the new growth ones illustrates the ubiquity of this decline.[3] In the basic exporting industries such as steel, coal and shipbuilding, one would expect a relative decline in their rate of expansion as a consequence of the industrialisation of developing countries. The loss by Britain of her position as the workship of the world is not however a sufficient explanation of the decline that occurred in that not only did the expected phenomenon occur, "but it was also accompanied by a genuine loss of impetus and efficiency"[4]. In the new growth industries, such as the electrical and chemical, where Britain had started on the same footing and at the same time as her rivals, her efforts were by comparison with theirs, a failure. In all areas, Britain produced less, exported less and expanded more slowly than did her main competitors; at this time Germany and the U.S.A.[5]

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2. E.J. Hobsbawm, Industry and Empire, (1974), p. 178.

3. The distinction between 'new' and 'old' industries is a much criticised one. See for example B.W.E. Alford, Depression and Recovery?: British Economic Growth 1918-39 (1972) p. 21. Nevertheless it retains its value in the examination of the spatial distribution of unemployment in that unemployment was most heavily concentrated in areas dependent on the basic industries.

4. Hobsbawm, op.cit., p. 182.

5. Hobsbawm, op.cit., pp. 179-81.

This overall decline is only partially explicable in terms of economic factors particular to individual industries. The stagnation of the export trade can, for example, be partly explained in terms of the influence of the adverse terms of trade for primary products, on the rate of growth of world trade in manufactures, from the 1880's onwards.[6] These adverse terms of trade are not however a sufficient explanation of the rate of decline of increase in British exports.[7] A fuller explanation of the decline in the export trade would have to take into account other factors, such as the industrialisation of developing countries. In seeking, however, to explain the decline in Britain's economic position, in terms of the factors contributing to the malaise of the export trade, one ignores the structural imbalance of the economy. In other words the stagnation of the economy was, in part, a consequence of an over-reliance on the export trade. This over-reliance is thus evidence of a failure to adapt structurally; to engineer a necessary shift from the declining basic industries into the new and more profitable growth ones, oriented towards the home market. "Britain had reached a point at which the maintenance of a high level of prosperity depended on exceptionally drastic shifts in the use of productive resources and greater ingenuity in the development of new types of finished products".[8] This necessary change of emphasis was, however, partly delayed by the achievement of an abnormal share of the world's shipping, insurance and other commercial services; invisible exports, and partly by a continuing reliance on traditional industrial sectors.[9]

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6. Lewis, op.cit. p. 74.

7. Less than 1% per annum at the end of the century compared to 8% per annum in the 1860's: Lewis, ibid.

8. W. Ashworth, An Economic History of England: 1870-1939 (1960), p. 321.

9. Lewis, op.cit. pp. 77-9.

Clearly the British economy failed to adapt in this period. Since the failure was in no way predetermined we must conclude that the adjustment never occurred either because its necessity was not realised or being realised was not desired. A number of explanations of this have been advanced including amongst them a variety of sociological ones, based upon an hypothesised lack of, or decline in, enterprise among businessmen and the general conservatism of British society. Although there may be some truth in such explanations, their inapplicability to many situations makes their value limited. In any case an economic explanation of an economic phenomenon is to be desired where available[10]. Several such explanations are available all of which are based on the assumption that in a nineteenth century capitalist economy "businessmen will be dynamic only insofar as this is rational by the criterion of the individual firm, which is to maximise its gains, minimise its losses, or possibly merely to maintain what it regards as a satisfactory long-term rate of profit".[11] What is, however, perceived as the best interest of the individual firm, need not work out to be to the best advantage of the economy. The explanation must therefore be advanced that the shift in resources never occurred because the necessity of that shift was never realised. Its necessity was never realised because the crisis affecting the British economy was not sufficiently severe to force a search for new sources of profit. The economy, therefore, is not planned, but rather emerges from a multitude of decisions taken on the basis of self-interest, which have as one of their possible consequences an overall decline in the economy.

The consequences of the failure to adapt in the pre-war period, were, however, as has been indicated, lessened or at least postponed

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10. Hobsbawm, op.cit. p. 187.

11. ibid.

by a reliance on the exploitation of natural advantages in the provision of services; "the British economy as a whole tended to retreat from industry into trade and finance, where our services reinforced our actual and future competitors, but made very satisfactory profits".[12] The British economy was thus, "becoming a parastic rather than a competitive economy, living off the remains of world monopoly, the underdeveloped world, her past accumulations of wealth and the advance of her rivals".[13]

In our examination of the British economy between the wars, we are not, therefore concerned with the emergence of new phenomena, but rather with the exacerbation and culmination of these long term trends and the necessity of making a shift that could no longer be postponed. "...it must be remembered that British industry had to undergo a radical change in a short period, undertaken in the midst of a world depression, and without very clear notions of the task to be accomplished. From undue and overlong reliance on the old staple export industries, Britain had to engineer a major switch to new industries requiring different skills and raw materials, different locations, and aimed increasingly at a rising home market. As it was done without planning, and with scarcely an understanding of its direction it was done hesitantly, clumsily and expensively. This in a nutshell, is the story of British industry since 1919".[14]

(i) Return to the Gold Standard

The decade prior to the world depression of 1929-31 saw a continuous worsening, and aggravation, as a result of government policy, of the long-term difficulties, of growing technological obsolesence,

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12. ibid. p. 191.

13. ibid. p. 192.

14. S. Pollard, The Development of the British Economy 1914-67, (1973), pp. 92-3.

declining overseas markets, overproduction and unemployment, under which the staple exporting industries were labouring. The basic industries were therefore depressed both as a result of long-term trends of economic development and short-term policy. In the long-term, trends of world economic and technological development operated against any post-war revival of the staple export industries. The only remedy, as has been said, was an adjustment of the economy to the change in circumstances. In the circumstances of the post-war period that adjustment would have required the transfer of capital and labour from the contracting to the expanding industries. Very little such adjustment in fact took place both as a result of labour immobility and the operation of vested interests.[15] In the period from 1920 to 1930 the North, Midlands and Wales lost 782,000 people by migration, while the South East gained 615,000. Between 1923 and 1930 the number of workers employed in the staple industries declined from: 1,224,000 to 1,070,000 in coal; 270,000 to 205,000 in ship-building; 667,000 to 592,000 in general engineering and 269,000 to 240,000 in wool and worsteds.

In the short-term, government policy was directed towards two ends, firstly a return to the gold standard at the pre-war parity, and secondly a reduction of the wage level which was regarded as too high for the chosen parity. The latter was not seriously pursued after 1926, but the former contributed directly to the deterioration in the position of the export industries. It was pursued largely on the grounds of prestige, motivated by a desire to restore Britain's position as a great financial centre, and was substantially in the City's and British overseas investors' interests.[16] Although its importance has been exaggerated there can be no doubt that the Gold

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15. For the adjustment that did take place see F. Benham, Great Britain under Protection, (1941), p. 19, et.seq.

16. H.W. Arndt, The Economic Lessons of the Nineteen-Thirties. (1944), p. 21.

Standard Act 1925, which marked the return to gold, contributed to the loss of overseas markets through the resultant overpricing of goods, whilst depressing industry, increasing the adverse balance of trade and maintaining a constant pressure on the Bank of England's gold reserves.[17]

Government economic policy therefore took little notice of the unsatisfactory nature of the underlying industrial situation, despite the setting up of several committees which revealed that industrial stagnation was a result of the loss of export markets and that unemployment was concentrated in those export industries. The decline in the export industries was not matched by a corresponding increase in the developing industries. Although they were expanding, the expansion was insufficient to absorb the export unemployed. As the Macmillan Committee pointed out, post-war unemployment was a result of heavy taxation and diminishing exports. Insofar as this decline had taken place before the world recession it could not be attributed to causes affecting the world as a whole.[18]

(ii) The Depression

Although the causes of the decline of the export industries preceded the Depression, the Depression had as one of its consequences the intensification of the overall difficulties of these industries. It is therefore necessary to say something on the origins and consequences of the Depression for an understanding of the policies which emerged as responses to the situations which it had engendered.

The Depression resulted from the upsetting of the precarious equilibrium of the world economy, "by 1929 the world economy, though outwardly prosperous, had developed a thoroughly unstable equilibrium

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17. Lewis, op.cit. p. 80. Pollard, op.cit. p. 215.

18. Report of Committee on Finance and Industry 1931 Cmd. 3897 Parl. Papers, 1930-31, vol. XIII p. 219. Chap. V. 'The Special Problems of Great Britain'.

which was liable to be turned into a cumulative decline by any major depressive factors".[19] There were three particular features of that inherent instability. Firstly the internal economic imbalance of individual countries, secondly, the development of a surplus commodity capacity in the primary producing countries and thirdly and finally, potential international monetary instability which was a result of major maladjustments in balances of payments, large scale international indebtedness and the existence of large amounts of volatile international short-term funds. The upsetting of any one of these would have immediate and cumulative consequences for the others.

It was, in fact, the internally generated slump in the U.S.A. which was to upset directly or indirectly each of these equilibria. The slump in demand depressed wholesale prices and world trade, whilst the decline in the value and volume of exports[20] accentuated by adverse capital movements increased for countries like Britain the pressure on gold and foreign exchange reserves and the external value of the currencies. These cumulative effects were further aggravated by the measures taken by individual countries to protect their own internal economies and currencies from the consequences of the Depression - which in turn led to further declines in world trade.

The combined effect of the initial depression and the protective measures of commercial and currency policy was thus an unprecedented decline in world economic activity. Production decreased to 55% below peak level in the U.S.A. in 1932 whilst in Great Britain it decreased by 25%. The worst hit part of the world economy was international trade which shrank in volume between 1929 and the third quarter of 1932 by 65%.

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19. Arndt, op.cit. p. 31.

20. Those from Great Britain declined by 30% between 1929 and the the third quarter of 1931, Arndt, op.cit. p. 22.

It is against this background that subsequent British policy should be examined. Although the causes of the Depression were for Great Britain mainly external, its consequences were to intensify those long-term difficulties of surpluses of imports over exports, adverse balances of trade, stagnation and unemployment in the export industries and increasing pressure on gold and foreign exchange reserves, under which Britain had been labouring for the previous decade.

The Depression had, in addition, one more important consequence which was in part the result of the culmination of the intensification of those difficulties. In August 1931, as a result of the general depression in trade and a crisis of confidence in the pound, followed by a drain on gold, a National Government under the premiership of Ramsey Macdonald, was formed and it is with the policies of that government and its successors that we are here concerned.

(iii) Subsequent Policy

The policies of the National governments of the 1930's have been represented as exhibiting markedly differing characteristics depending on whether they were a part of foreign or domestic policy. Whilst in the former, it is argued, there was a general trend away from laissez-faire towards increased state intervention, the latter was marked by a continuing reliance on a traditional conception of the role of the state in relation to the economy. Internal economic policy was thus, "remarkable for its orthodoxy. The great depression did not lead to any marked increase in state interference in, or control of, the economic system. It was left to private enterprise, aided only by protection from foreign competition, 'cheap money' and minor internal measures of assistance to lift the British economy from the depression."[21]

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21. H.W. Arndt, op.cit. p. 122.

An examination of British economic policy during this period reveals some of the inadequacies of this description.

(iv) Foreign Policy

British foreign economic policy was indeed marked by an increase in intervention during this period. In examining it, however, it would be erroneous to overestimate the degree of rationality in the trend towards greater intervention. The trend was not entirely deliberate or even voluntary. Partly it was a result of a determinatio to take advantage of a strong bargaining position, to secure markets for exports and the repayment of debts. Such a determination involved the sacrifice of means to ends. If economic objectives could only be achieved by greater intervention, then one would expect to find, as a result, that intervention. To a large extent, however, it was largely a reaction to the growth of state control elsewhere. In an interdependent world economy in which individual economies competed on the basis of state control over trade and discriminating monopolies it was to a large extent inevitable that Britain should, in the pursuit of self-interest, adopt similar methods to those of her competitors rather than suffer a comparative disadvantage.

(a) Abandonment of Gold

The abandonment of the Gold Standard, which had been restored at such cost in 1925, in September 1931, marked, in part, the removal of the gross disparity between policy and economic reality which had hampered Britain's economic performance throughout the 1920's, and a turning point in the depression. "No single change illustrated more completely the reversal of the policies of the 1920's than the decision to leave the Gold Standard. Although it is possible to overestimate the handicap placed upon the economy by the decision to return to gold it is certain that "for the 'prestige' of the pound, regained for

six years only, an exorbitant price was paid."[22] In 1925, however, only Keynes and Bellerby had argued against what was then regarded as the successful culmination of British post-war monetary policy[23], on the grounds that, a return to gold at the pre-war parity effectively meant that the pound was overvalued by some ten per cent and that, in the post-war world an international gold standard "would not work as freely as the idealized pre-war standard was said to have done".[24]

The consequences of the return to the Gold Standard affirmed the accuracy of Keynes' contentions. Not only did the return encourage imports whilst further handicapping exports; between 1927 and 1929 the average British export price (1913 = 100) was 162 compared with 101 in France and 123 in Italy whilst the average volume of exports was 85 for Britain and 147 and 136 for France and Italy respectively, but it also meant continuing difficulties in the maintenance of the parity and the protection of the gold reserves, which involved a deflationary monetary policy with high interest rates which further depressed home economic activity. Such a background was not one against which a shift of resources could be accomplished and it was paradoxical that whilst the rest of the world should undergo something approaching a boom, for most of the decade Britain should limp along under the handicaps of an inflexible industrial structure and a self-imposed monetary policy. "In retrospect, it seems impossible to deny that the preparations and the return to gold at too high a rate contributed to the depressed conditions of British industry in 1925-9, at a time when the rest of the world enjoyed a prolific boom...".[25]

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22. W.A. Lewis, op.cit. p. 81.

23. J.M. Keynes, The Economic Consequences of Mr. Churchill (1925), Tract on Monetary Reform (1923). M. Nicholson, The System : The Misgovernment of Modern Britain (1967) pp. 210-13. K.J. Hancock. Unemployment and the Economists in the 1920's. Economica XXXVII [1960] p. 309.

24. Pollard, op.cit. p. 211.

25. Pollard, op.cit. p. 221.

The depression further aggravated the balance of payments problem. Two effective remedies were available, further deflation or a depreciation in the value of the currency, both of which appeared equally unattractive. The decision as to which course to pursue was however removed from the British government by the financial crisis of the summer of 1931. The loss of foreign confidence in the British economy led to a recalling of assets, a flight from the pound and the rapid exhaustion of the reserves. The National government under Ramsay Macdonald, which had emerged as a result of the accompanying political crisis, was forced into the suspension of the Gold Standard, which it had ostensibly been formed, and confirmed in office, to protect,[26] and the next day to its final abandonment. That abandonment was followed by a rapid depreciation of 30% in the value of the pound. "The Gold Standard, which had been held to be of such paramount importance that its restoration justified hazarding the whole future of the national economy, was accordingly abandoned for ever after only half a dozen years by the very authorities who had so stubbornly insisted upon it".[27]

There were several consequences of the abandonment of the Gold Standard. Firstly, the Gold Standard (Amendment) Act 1931 signified the reversal of 200 years of British monetary policy which had been based on adherence to the Gold Standard.[28] After 1931 the pound was operated as a managed currency, excessive fluctuations being avoided through the establishment, by the Finance Act 1932, of an Exchange Equalization Account, to maintain the value of the pound against the franc and the dollar. Secondly it was the first, albeit unconscious, step in helping Britain out of the depression, in that the stable currency paved the way for the 'cheap money' policy of the 1930's. It reduced imports and aided exports; the share of Britain in world

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26. K.B. Smellie, A Hundred Years of English Government, (1950) p. 236.
27. Nicholson, op.cit. p. 244.
28. E. Nevin, The Mechanism of Cheap Money: A Study of British Monetary Policy 1931-39, (1955).

exports, which had declined from 10.75 per cent in 1929 to 9.36 per cent in 1931 advanced to 9.92 per cent in 1932 and 10.37 per cent in 1933, thus stimulating economic activity and contributing towards a balanced budget.

Whilst British exports enjoyed this competitive advantage for a period of two years until the United States left the Gold Standard in 1933, it cannot be denied that the decision to abandon the Gold Standard had adverse effects on the remainder of the world economy which in turn harmed the position of British exports. It seems justifiable however to conclude that "the total adverse reactions... hardly offset the stimulus which the depreciation of the pound had imparted to the British economy and which was probably the decisive factor in the early British recovery".[29] Furthermore, by removing the pressure of the balance of payments, the abandonment of the Gold Standard, whilst protecting the home market, allowed the pursuit of a more independent internal policy by government.

(b) Protection

The abandonment of the gold standard and the replacement of free trade by a general tariff and a system of imperial preference marked the end of an era in Liberal-Conservative thought,[30] and the emergence of a different relationship between government and industry. "With the abandonment of the gold standard and the adoption of Protection it seemed to me that we had 'reached the end of a period in Britain both in economics and politics...Protection delivered the final blow to the whole conception of an unplanned self-regulating economy. On the top of the many other legislative barriers to free adjustment we had introduced a new kind of interference ...which increased tremendously

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29. Arndt, op.cit. p. 100.

30. N. Harris, Competition and the Corporate Society : British Conservatives, the State and Industry 1949-64, (1972), p. 48.

the responsibilities of the State in economic affairs".[31] The power of the free export of capital and the free import of goods were now to accrue to the State.[32]

Although the imposition of tariffs did represent a complete reversal of traditional British economic policy, the previous decade had seen some digressions from the basic principles of free trade, particularly in relation to the 'new' expanding industries. During the war, duties had been imposed as a means of saving foreign exchange and shipping space. The 'McKenna duties' of 1915 had imposed a thirty-three and one-third per cent ad valorem duty on some imported luxury goods. Although the rationale for their imposition ended with the war they were maintained, except for a brief period by the 1924 Labour Government, and were added to on their reimposition in 1926. Their maintenance reflected the emergence of a different rationale; that being that they allowed new industries such as motor manufacturing to grow to maturity behind the protection of a tariff wall.

Two statutes passed immediately after the war increased the scope of protection. The Dyestuffs (Import Regulation) Act 1920 banned the importation of dyestuffs[33] except under licence, for a period of ten years[34], permitting considerable growth in the industry for the period of the ban. The Safeguarding of Industries Act 1921, protected key industries under Part I by a thirty-three and one-third per cent ad valorem duty on all, except Empire, imported goods[35]. Protection

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31. Harold Macmillan, The Middle Way, (1938), pp. 198-9.
32. Harris, op.cit., p. 53.
33. Section 1(1).
34. Section 5(1).
35. Section 1(3).

was further extended by inter-alia the Safeguarding of Industries (Customs Duties) Act 1925 which extended protection to gloves, cutlery and gas mantles, and by the Cinematograph Films Act, 1927.

These measures did not, however, amount to a protectionist policy. Arndt estimates that in 1930 more than 80 per cent of imports were admitted duty free whilst Pollard states that only 17 per cent of imports by value were dutiable, mostly by revenue duties only; protective duties did not affect more than two to three per cent of imports.[36] Nor was prevailing opinion in favour of protection. The Balfour Committee on Industry and Trade[37] emphasised that Britain's main problem lay not in keeping out imports but rather in solving the problems of the export industries. That orthodoxy was however swept away in the crisis of the summer of 1931. Protection, which had been a latent issue within the Conservative Party since Joseph Chamberlain's Tariff Reform Campaign had converted the Party to it in 1902 was revived as the remedy for Britain's ills and imposed within six months of the election of the National Government, by the Import Duties Act 1932. The imposition of protection at this time appears to have been based as much on political self-interest as on economic logic. Arndt comments that 'it is doubtful whether economic reasoning played the decisive part in this process"[38]. Certainly it can be described as a victory of producers for the home market over the export industries; as part of a rationalisation and reorganisation movement based upon control over the home market, free from the trammels of foreign competition[39]. "The exclusion, or at least the limitation of imports of various manufactured and semi-manufactured articles (and it is against these that tariffs have been specially directed) will

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36. Arndt, op.cit. p. 104. Polloard, op.cit., p. 194.

37. 1929, Cmd. 3282,, Parl. Papers. 1928-9 VII, p. 413.

38. Arndt, op.cit. p. 102.

39. Harris, op.cit. pp. 50-3.

have resulted in an increase in the corresponding industries in this country...Further, to the extent that protection has meant a reduction in exports, the decline of the staple industries will have been accentuated".[40]

The 1932 Act was preceded by a temporary Abnormal Importations (Customs Duties) Act 1931, enacted to stem a flood of import orders in anticipation of the imposition of a general tariff, which empowered the Government to impose duties of up to 100 per cent ad valorem on manufactures imports. In the intervening period a Balance of Trade Committee, chaired by Neville Chamberlain, then Chancellor of the Exchequer, was set up to examine the situation. After its routine and perfunctory investigation (there being no doubt as to its ultimate conclusions) the Imports Duties Act 1932 laid the basis for the new tariff structure. The emergency duties were replaced by a general 10 per cent ad valorem tariff on all imports with the exceptions of Empire goods and those goods on a free list which mainly compromised raw materials and foodstuffs. The Act further empowered the government to impose higher duties on the recommendation of an Import Duties Advisory Committee set up under the Act[41].

The position of the Import Duties Advisory Committee was, in fact, one of some interest. Although it was an independent body, in form advisory, it wielded considerable powers. It had to consider applications for the imposition of duties on goods additional to the general duty of 10 per cent, or for the exemption of goods from the general duty. The Treasury, whom it advised, could not act, except on its recommendation or impose duties higher than those recommended. Once tariffs acceptable to the most important sectors of business had

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40. S.R. Dennison, The Location of Industry and the Depressed Areas. (1939), p. 73.

41. Section 2(1).

been established the Committee actively intervened to force concentration or coordination[42]. It has been pointed out that its constitutional status was due to a desire, 'to remove the determination of the details of tariff policy away from political influence by the device of referring the whole subject to an independent authority not responsible to a Minister and Parliament'[43]. That said, the issue did not cease thereby to be political. The desire was thus to ensure that, that policy, once decided, in itself a question of politics, should be immune from any interference; that it should, in effect, cease to be a question of 'politics'. In this context the comments of L.S. Amery are perhaps the most revealing, "so there was a make-believe inquiry into the balance of payments (The Balance of Trade Committee)... By 21st January the majority had discovered that reasons of balance of trade and revenue necessitated a 10 per cent tariff over most imports...but that the Chancellor of the Exchequer should be free to impose additional duties on the recommendation of an impartial Advisory Committee. This last was Neville's ingenious solution of the problem. As he explained to me (though not, I fancy to the Cabinet) he proposed to appoint the Advisory Committee himself, and to give them sufficiently definite directions to see to it that the additional duties did cover the ground and constitute an effective protective tariff."[44]

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42. Harris, pp. 42-3, and Macmillan, op.cit. p. 197. 'as a result of the pressure brought to bear upon the industry by the I.D.A.C. as a condition of granting tarrif protection, a scheme of reorganisation was formulated in March 1933", "it could insist upon conditions in return for the grant of protection', F.M.G. Willson, The Organisation of British Central Government 1914-64 (1968), p. 51, and P. Vernon and N. Mansergh. Advisory Bodies, (1940) pp. 117-20 and 137-8. For the report of the Committee see Cmd. 4066 and The Times 24 Nov. 1937 where reference is made to the 'deliberate industrial planning concept to be found in the report of the Committee.

43. Willson, op.cit. p. 51.

44. L.S. Amery, My Political Life. Vol. 3, The Unforgiving Years 1929-40, (1955) p.76.

The non-application of the Act to Empire goods provided the basis for a system of Imperial preference which was the subject of the Imperial Economic Conference held in Ottawa in 1932. The agreements concluded, however, did little to realise the hopes of the participants.[45]

It is difficult to assess the final effects of protectionism against the claims which were originally made. Neville Chamberlain had adduced seven reasons in favour of the Import Duties Bill on its introduction to the House of Commons; it would, he argued, correct the balance of trade, raise revenue, increase production through an expansion of the home market, encourage industrial efficiency, promote tariff agreements, allow for retaliation against foreign tariff discrimination and advance imperial preference.[46] The validity of each of these reasons does not bear equally close examination. Clearly, however, the protectionists were in the ascendancy, and arguments used tended to depict protectionism as a panacea for the nation's ills. One statement can be made and that is that protection by itself, in short-term, did nothing to help the export industries. Indeed it increased the burden of increased costs upon them and reduced foreign demand[47]. Protection was not, however, primarily intended to assist the export industries, other than on perhaps a long-term view[48], and it is doubtful whether such a view was taken. Rather its aim was to protect the new consumer industries. "Not until the basic and export-oriented industries of the late nineteenth century collapsed after the First World War, and the domestically

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45. The Ottawa Agreements Act, 1932.

46. Macmillan, op.cit. p. 197.

47. Pollard, op.cit. p. 200.

48. Arndt, op.cit. p. 111.

oriented industries became decisively important, was the road to protection clear".[49] The rationale for its imposition was not, however, purely economic. "Its imposition [protection] was motivated at least as much by politics as by economics. It arose out of the desire of the Government to be seen to make a gesture and take some novel action to stave off economic disaster, and at the same time to please some of its friends, rather than out of a careful balancing of economic advantages."[50] Protection alone could not solve the problems of the export industries. It could only increase them.

(c) Other Policies

Three other aspects of foreign commercial policy assumed particular importance during this period; foreign investment, export policy and debt collection. Each had particular consequences for the basic industries.

(i) Foreign Investment

Capital export, financed by balance of payments surpluses, had since 1870 assumed rapidly increasing proportions until by 1907 it was estimated to exceed the total of domestic real net investment and by the outbreak of war capital assets abroad owned by British citizens were estimated to be in the region of £4 milliard. After 1931 there was a virtual cessation of foreign investment, and repayments of capital exceeded foreign lending for the first time since the Industrial Revolution.[51] Despite minor attempts to promote capital export such as the Colonial Development Act 1929, the volume of capital exports had been declining since the end of the war. Their cessation was the result of a complete, although unofficial, embargo imposed from 1932 on new foreign issues. The main purposes of the embargo were firstly to ensure the success of the conversion of the National Debt by relieving any pressure on the balance of payments,

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49. Hobsbawm, op.cit. p. 244.

50. Pollard, op.cit. p. 200.

51. Pollard, op.cit. p. 191.

and secondly and relatedly to facilitate the introduction of the initially deflationary cheap money policy of the Government which was based on low interest rates.

Control was unofficial and the ban did not in practice completely prevent the export of capital since there was no proscription on the transfer of sterling into foreign currencies or the purchase by British residents of foreign securities. These could only be prevented by the imposition of exchange control, a measure not adopted until after the Second World War.

The export of capital had always been associated with the export of capital goods and it was felt that the output of the export industries depended upon the level of foreign demand stimulated by British overseas investment. There was thus some basis for the argument that a cessation of foreign investment would reduce still further the markets of the British export industries. The Balfour Committee, although not prepared to attribute depression in the export trade to the 'heavy post-war decline in the export of capital', stated, however, that the attainment of full employment in the export industries was dependent upon 'a substantial increase in the export of capital'.[52]

It is, however, difficult to assess what significance should be attached to the decline in overseas investment as a factor in the depression of the export industries. Clearly their depression was as much the result of over-capacity, technological obsolesence and foreign competition. Nor is it certain that an increase in foreign investment at that time would have stimulated demand. As Arndt points out 'the need for development investment in the large overseas primary producing areas had greatly diminished; and the capital needs of these countries for the construction of secondary industries were increasingly met out of domestic capital resources." Furthermore,

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52. Cmd. 3282, op.cit. Section IV part 3.

"whereas pre-war development loans and direct investment had not given rise to balance of payments difficulties since they directly stimulated foreign demand for British goods, loans of the Dawes, Young and League of Nations Reconstruction types at best promoted British exports only indirectly."[53] Moreover the position of the balance of payments did not warrant such an expansion at that time. This factor was recognized in the Report of the Commissioner investigating the depressed areas of Durham and Tyneside some three years later, Captain D. Euan Thomas;"for many years past the capacity of some overseas countries to absorb British exports has been stimulated by the investment in them of a substantial proportion of our favourable balance of our international payments. It is open to question whether any country can continue to support the adverse balance which appear to be the inevitable corollary of this system. The theory that overseas investment will provide an unceasing outlet for the growing industrial activity can, therefore, no longer be accepted as axiomatic."[54] Although the analysis may with hindsight be regarded as suspect, the implicit priorities are nonetheless clear.

(ii) Export Policy

We have seen that the imposition of protection did nothing by itself to improve the position of the export industries and may indeed have harmed their position. A revival of their depressed position was however fundamental because of the proportion of the economy which they occupied, the large scale unemployment problem associated with them and the necessity of exports to finance imports. The imposition of protection was thus accompanied by an export policy which had as its aim the furtherance of exports. The imposition of protection

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53. Arndt, op.cit. p. 110.

54. Ministry of Labour. Reports of Investigations into the Industrial Conditions in Certain Depressed Areas. 1934. Cmd. 4728. p. 106.

had facilitated the achievement of this task in that it provided Britain with a strong bargaining position in her negotiations with other countries. Although that strength was initially used with little awareness of its potential, it soon manifested itself in a series of bilateral trade agreements with countries such as the Argentine, Norway, Sweden, Poland, and Russia, who were in a particularly vulnerable position in that they maintained an export surplus with the United Kingdom. These agreements were ostensibly successful in that while the share of British imports in the countries with which agreements had been concluded fell, British exports to these countries in fact increased. The net effect is however more difficult to estimate in that these gains were to a certain extent offset by increased competition in markets where no pressure could be brought to bear. Whether or not the benefit was in fact a net one, Britain's share of world trade continued to decline, the gain in protected markets being insufficient to compensate for the losses in the unprotected ones.[55]

There were two other aspects of export policy of particular importance at this time, which relied on a mixture of state assistance and private initiative. Firstly, exports were assisted by state control over the direction of foreign investment and state insurance for private commercial credits to foreign importers through the Export Credits Guarantee Department. Such foreign investment as did take place after 1933 was directed to the areas where it would do most to benefit foreign trade in an attempt to compensate the export industries for the disadvantages suffered as a consequence of the embargo imposed upon capital export.[56] The activities of the Export Credits Guarantee Department were a consequence of the increased competition experienced in existing export markets.

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55. Lewis, op.cit. p. 84.

56. Pollard, op.cit. p. 192.

Formerly, operated as the Government Exports Credit Scheme, of the Export Credits Department of the Board of Trade set up in 1919, it was replaced by the Government Export Credits Guarantee Scheme in July 1926 as a result of the report of the Credit Insurance Committee. Although the Balfour Committee had not wanted the scheme extended beyond July 1931, its functions were not taken over by private enterprise as recommended and its activities increased sixfold between 1933 and 1937[57]; loans granted being conditional upon the purchase of British goods.

Secondly, the government aided the conclusion, between British exporters and foreign importers and producers of a variety of private international agreements, as a result of tariff manipulation and grants of official sanction. It is difficult to assess the effects of these agreements on the export trade. Insofar as they operated to maintain or increase raw material prices, they may be regarded as having been detrimental to British interests.[58] It is clear, however, that they were only a part of a wider trend towards a world economy within which international trade was characterised by a Balkanisation of markets, international cartels, restrictive agreements and bilateral trading arrangements.

(iii) Debt Collection

The final aspect of foreign commercial policy which assumed particular importance at this time was the policy of debt collection which stemmed from the difficulties of obtaining free sterling and the accumulation of considerable debts to Great Britain by importing countries. The policy was pursued by a series of agreements concluded with debtor countries between 1933 and 1938, the basic principles of which were to accord priority to the repayment of debts over purchase of exports with sterling gained as a result of goods imported from those countries by Britain. Such a policy of debt

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57 Arndt, op.cit., p. 192. The first legislative intervention was the Overseas Trade (Credit and Insurance) Act 1920.

58 ibid., p. 115.

liquidation was obviously in conflict with other aspects of commercial policy such as export promotion and to the extent that debt liquidation was pursued with disregard for exports, exports suffered as in the cases of Italy and Turkey[59]. The policy thus meant that in the interest of British investors, opportunities of stimulating British export trade and thus speeding the recovery of the British export industries were missed.

(v) Conclusions

This exposition and analysis prompts a reconsideration of the original description of foreign commercial policy as being marked, during this period, by a general trend away from laissez-faire towards increased intervention, thereby contrasting it with 'the remarkable orthodoxy' of domestic policy[60]. By itself this description is not particularly helpful in that firstly its generality serves to conceal important distinctions that should be made. Secondly, examples which cannot easily be accommodated within the description cannot be explained by it. On the first point, there is a considerable history of state intervention in the course of the 1920's, through the various Overseas Trade and Trade Facilities Acts. Such intervention, although considerable in volume, is, however, qualitatively distinguishable from the intervention which resulted from the Import Duties Act 1932. The second difficulty stems partly from the artificiality of the distinction between domestic and foreign policy, each dominated by a different conception of the role of the state, the one interventionist the other 'orthodox'. It is doubtful whether it can be anything other than one of convenience, in that in practice it proves an increasingly difficult one to maintain. For example, the difficulties of the export industries were the concern of both

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59. ibid., p. 115.

60. ibid., p. 115.

domestic and foreign policy, in the former, through, for example, the Coal Mines Act 1930, in the latter, through bilateral trade agreements. The very fact of that domestic intervention casts doubts upon the validity of the description of domestic policy as being remarkable for its 'orthodoxy'. Furthermore the notion, of the different areas of policy, as dominated by different conceptions of the role of the state, has the attached danger that it is assumed that the nature of the intervention can be deduced from statements of the prevailing 'orthodoxy'. The 'orthodoxy' pursued throughout the 1930's was by no means clear cut or well-defined. Obviously state intervention is a response to concrete situations in which the prevailing 'orthodoxy' may serve to inhibit or encourage intervention; "a good deal of economics has the function not so much of telling government or business what they ought to do as of telling them what they are doing (or not doing) is "right"[61]. Intervention may thus be orthodox or have as its consequence the replacement of an orthodoxy by a more accommodating one.

The question of what is orthodox is not thus the product of abstract ideas but rather derives from existing practice and self-interest. A closer examination of the 1930's reveals therefore a variety of conceptions of the role of the state, some of which were dominant at a particular time but were replaced by others. We have, for example, seen how quickly free trade was replaced by protection, a process which had as its corollary the rapid emergence of a new orthodoxy. In this context it is worthwhile to note that the National Government attributed its success in restoring business confidence to its pursuit of 'orthodox policies', a remarkable claim for a government which had reversed the basis of a century's economic policy, the gold standard and free trade, within five short

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61. Hobsbawm, op.cit. p. 226.

months. The new orthodoxy was however dominated by intense public argument as to the role of the state; the arguments over planning or laissez-faire, competition or coordination, representing the hallmark of the new era ushered by the imposition of protection[62].

Two conclusions should be drawn from this. Firstly, before 1931, conceptions of the proper role of the state were based upon an orthodoxy which was more customary than rational. Policy is normally 'orthodox' that is theory hardened to some extent into uncritical dogma[63]. That orthodoxy was seriously affected by the abandonment of gold and the imposition of protection. The 'orthodoxy' pursued thereafter was a fluid one not subject to definition other than to justify action or inaction. Secondly, however, it would be erroneous to assume that the abandonment of a customary conception of the role of the state signified its immediate replacement by one in which the state attempted to achieve specific ends by rational means. Limitations of knowledge and political conflict alone precluded this. The dominant feature of intervention whether foreign or domestic was its piecemeal or fragmentary nature. It was not in any way marked by an overall logic or coherence. Keynes alone persisted on the rationalist belief that ideas alone could determine the course of events[64].

(vi) Internal Policy

Domestic policy, during this period, has been the subject of differing descriptions. It has, for example, been described as being based on a minimalist conception of the role of the State; as hardly departing, "from orthodox practice. The State on the whole confined its intervention to measures intended to provide suitable conditions for a recovery of private enterprise".[65]

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62. Harris, op.cit. p. 55.

63. Hobsbawm, op.cit. p. 226.

64. D. Winch, Economics and Policy, A Historical Survey (1969) p. 20.

65. Arndt, op.cit. p. 94.

Such a statement is little more than a truism. In so far as intervention was not intended to replace, but rather maintain, private enterprise, economic recovery could only come about with its recovery. What therefore remains at issue is the extent to which the "measures intended to provide suitable conditions", can be accurately described as "orthodox practice"? Hobsbawm, in contrast, describes the importance of state intervention during this period as having become very much greater.[66] Moreover, he draws a distinction between economic and welfare intervention. Whilst intervention of the former type proceeded apace there were, he argues, serious attempts to restrict intervention of the latter type. "The inter-war depression encouraged the states intervention in business much more than did its welfare activities".[67] The implication is that as regards business at least, domestic policy saw considerable deviation from the previous orthodoxy. A glance at the measures adopted by the government in relation to the economy; protective compulsory rationalisation and amalgamation, subsidies, tax incentives and even nationalisation, illustrates the inapplicability of the description 'orthodox practice'. To quote Hobsbawm again, 'between the war, and especially during the 1930's, Britain...turned from one of the least into one of the most trustified or controlled economies, and largely through direct government action".[68] Such activities would have been politically unthinkable before the war.

It is thus arguable that the inter-war period witnessed a major reorientation of the government towards the economy. The change that took place was, however, in practice neither immediate nor one pursued with conviction. Intervention was primarily defensive in nature; instituted to protect the basic industries from the

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66. Hobsbawm, op.cit. p. 213.

67. Ibid. p. 241.

68. Ibid. p. 242.

consequences of excess capacity, diminishing markets, technological obsolescence and foreign competition and to allow the new industries to grow to maturity protected from competition.

Increased intervention was not however characteristic of the whole of British economic policy during the inter-war period. In certain areas the commitment was one to the unquestioned tenets of the past despite the change in circumstances. Financial policy provides a good example of this process. The initial reaction to the Depression was to pursue strict financial orthodoxy, that is, balanced budgets and reduced government expenditure, the object being the restoration of business confidence through the establishment of a favourable financial climate. This policy was "pursued with such deliberation that it must be considered as an explicit measure of policy on an equal footing with protection"[69]. Britain was, however, the only one of five major western countries, America, France, Germany, Sweden and Britain not to pursue a policy of budget deficits during the 1930's, the net effect of which was, up until the rearmament in 1937, deflationary rather than reflationary. The only defence that could be made of such a policy was that it operated so as to restore business confidence, "business confidence was stimulated by the return of a 'sound' government with 'sound principles of public finance".[70] "First Baldwin then Chamberlain, gave confidence and reassurance by appearing to believe that no radical changes were called for [and] that the old principles of thrift and sound finance would see the country through".[71] Such a claim cannot, however, be proved or disproved. The psychological variable, the level of business confidence, which is not explained, is used to explain everything else. The consequence, therfore, was that government remained commited to a policy, which lost its rationale with the

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69. Winch, op.cit. p. 204.

70. Arndt, op.cit. p. 125.

71. N. Branson and M. Heinemann, Britain in the Nineteen Thirties (1973), p. 17.

abandonment of the gold standard. As D.H. Robertson pointed out, "the policy of strict economy has become an advanced guard without an army"[72].

Government, however, by contrast ignored its previous tenets in its intervention in industry generally. Here, although intervention was mainly defensive and fragmentary it would be erroneous to regard it as at one with the past. 'Politically the expansion of state activity during and after the second world war was still shocking, economically and administratively it merely continued along well-explored paths'.[73] Thus, although it would be correct to regard some areas of domestic policy as dominated by an unquestioned orthodoxy, it would be erroneous to assume that no change had taken place in others. The changes that occurred cannot be regarded as "being of a really revolutionary nature "[74], but neither did they represent the uninterrupted continuation of previous trends. In examining domestic policy during this period a distinction should be drawn between the short-term reaction to the crisis of 1931 and the long-term policy which later emerged and was pursued for the remainder of the decade. In both areas, the comparative non-severity of the crisis and the effective insulation of the home market as a result of the abandonment of gold and the imposition of protection gave the Government considerable room for manoeuvre.

(a) Short-term Reaction

The short-term reaction to the crisis of 1931 may be described as the application of unqualified financial stringency. "The automatic reaction of financial orthodoxy to the 1929 slump was to

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72. Essays in Monetary Theory (1940) p. 75.

73. Hobsbawm, op.cit. p. 242.

74. N. Chamberlain quoted in D. Winch, op.cit. p. 198.

cut expenditure generally".[75] Indeed it was over the volume of the cuts recommended by the May Committee that the Labour Cabinet had split in September 1931. The emergency budget of that year combined heavy increases of direct and indirect taxation and cuts in all items of public expenditure in an attempt to balance the budget by a policy of domestic deflation. Such a policy had as its inevitable corollary the reduction of welfare provisions. Thus, whilst state intervention in business proceeded apace, serious attempts were made to reduce the burden of expenditure associated with welfare. The depression, thus, 'did not lead governments towards the welfare state; it led them into desperate efforts to prevent its extension".[76] Nor was there any attempt to compensate for the reduced burden of welfare expenditure by a policy of public works. This was in part a consequence of the failure of the previous Labour government to institute such a policy during the period it was in office and partly a consequence of factors peculiar to the National Government. The failure of the Labour Government was a consequence of inadequate planning, the weakness of their political position, Treasury opposition which maintained that, 'whatever might be the political or social advantages, very little additional employment and no permanent additional employment can, in fact, and as a general rule, be created by state borrowing and state expenditure'[77], and the immense practical difficulties associated with the devising of such a programme[78]. Moreover this failure removed any political onus on the National Government to match the achievements of their predecessor and made it easy for them to justify the policy of inactivity to which they subscribed. There were two reasons for this, both peculiar to the

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75. Hobsbawm, op.cit. p. 241.

76. ibid., p. 241.

77. Winston Churchill, quoted in S.H. Beer, Treasury Control, (1956) pp. 1-2.

78. H.W. Arndt, op.cit. p. 125.

National Government. Firstly, both Baldwin and Chamberlain believed "the rather simple economic philosophy that state spending was money wasted to the economy".[79] Secondly, the most influential exponent of a policy of public works was Lloyd George who, "by supporting the idea himself, ensured for practical purposes that Chamberlain and Baldwin would oppose it"[80].

The reduction of expenditure was accompanied by a raising of wholesale prices through cartellization and international agreements in an effort to restore profit margins, the importance of which had been emphasised by the Macmillan Committee[81]. One final reaction, which defies quantification, should be mentioned and that is the political attitudes that accompanied the crisis of 1931. Not only was the crisis seen as providing an opportunity for the imposition of protection, reduction of expenditure and the raising of prices but also as an opportunity for the restablishment of a hegemony which had seemed in continuous jeopardy throughout the post-war decade. "Forced to manoeuvre and compromise all through the twenties, the governing class now saw its opportunity to re-establish old relationships."[82] Such attitudes had a crucial bearing on the ensuing political conflicts.

(b) Long-term Policy

The contrasting descriptions of domestic and foreign policy have already been commented upon and criticised. Whilst it is not doubted that the recovery was 'orthodox' in the sense that it relied upon private enterprise, the means adopted to further that recovery, resist the conclusion, as has been pointed out, that there was no marked increase in the state intervention in the economy. Both

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79. B.B. Gilbert, British Social Policy 1914-39 (1970) p. 193.

80. Ibid. For the full story of the emnity felt by Neville Chamberlain for Lloyd George and particularly his antipathy to a policy of public works, see L.S. Amery, My Political Life. Vol. 2, p. 100. Vol. 3 p. 94.

81. Cmd. 3897, pp. 84-92 and 114-7.

82. Branson and Heinemann, op.cit., p. 22.

generally and specifically, economic success was dependent upon active state cooperation. Apart from the measures of assistance adopted in relation to specific industries which are examined later, the most notable feature of long-term domestic policy was the policy of 'cheap money' instituted in 1932.

The institution of the cheap money policy had little to do with the long-term recovery of the economy. Indeed its original attraction was that it provided a means of isolating the British economy and of reducing Government expenditure through the reduction of debt charges. "The motive was, apparently, not so much one of promoting recovery as one of reducing debt charges".[83] The policy itself was achieved by three means. Firstly the successful conversion of war loan from a 5% to a 3½% basis which forced down interest rates. Secondly, by the expansion of the cash basis of the banks which allowed for increased loans and investments and thirdly by the control exercised over new capital issues which precluded foreign lending and thus the seeking of more attractive interest rates elsewhere.

It was only later, however, that it was realised that the policy might operate to increase the total level of activity in the economy and to favour 'the active as against the passive members of the community: a step in the direction of what Keynes came to call 'the euthanasia of the rentier'.[84] Thus the guise of cheap money as designed expressly to further recover was only assumed later, "and even then the view taken by the authorities was one of "benevolent neutrality" rather than "firm conviction".[85] Consideration of the contribution of the policy of cheap money to the overall recovery of the economy encompasses finally, a consideration of the contribution of government policy generally to the recovery.

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83. C.L. Mowat, Britain Between the Wars 1918-40, (1955) p. 456.

84. Pollard, op.cit. p. 237.

85. Winch, op.cit. p. 203.

(c) Recovery and Government Policy

The recovery which reached its peak in 1937 was one which was based primarily on rapidly expanding production for the home market. Low prices, increasing consumption and rising productivity represented the origins of the recovery. The contribution of government to that process was however indirect and fragmentary. Policies such as cheap money, protection and devaluation, "acted in the right direction, but were not in themselves, sufficient to bring about recovery".[86]

The area of policy most likely to assist in the recovery was that of cheap money. "Basically the claim that (it) assisted the economic recovery must rest on the claim that it helped to bring about the building boom of the '30's".[87] Here, however, the evidence suggests a minimal contribution for government policy. Cheap money was but one of the factors affecting the supply side, reductions in costs, and on the demand side, the upswing in the building cycle, population migration and the rise in real incomes were of equal if not greater, importance.[88]

The real significance of government policy during this period lies, therefore, not with the substance of its consequences, but rather with the changes of attitude and the increasingly close relationship between the state and business of which it provides evidence.

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86. Winch, op.cit. p. 200.

87. Pollard, op.cit. p. 238.

88. ibid., pp. 238-40; Lewis, op.cit. p. 86; Winch, op.cit. p. 203.

3. SOME ASPECTS OF INDUSTRIAL ORGANISATION IN THE INTER-WAR PERIOD

Introduction

The changing nature of the economy and of business responses to those changes are illustrated by the developments in the forms of business organisation adopted during this period. These changes were not in the main reflected in the development of new forms of business organisation but rather in the more intensified use of existing forms and their extension to virtually all sectors of the economy. Taken in conjunction with the increase in the functions of government they are indicative of 'a new attitude towards economic policy and represent a distinct phase in the economic development of this country'.[1] More particularly, they are the expression of a trend towards the replacement of competition by coordination on the part of business with the acquiescence and sometimes active assistance of Government.

Their examination during this period thus provides a point of reference by which to assess subsequent developments and, in addition, prefaces an analysis of government and the economy which involves, of necessity, consideration of changing political attitudes towards the economy and economic policy. Five particular aspects of industrial organisation have been chosen for examination; first, the growth of publicly owned and non-profit making enterprises; second, developments in relation to privately-owned companies; third, and relatedly, the growth of trade associations; fourth, the growth of concentration and finally, the changes in public attitudes towards concentration and schemes for the restriction of competition.

(i) Publicly Owned Non-Profit Making Enterprises

The increase in the functions of government and the growing intervention in, control over, and regulation of, economic activities

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1. Pollard, op.cit., p. 161.

is reflected in the growth of public and non-profit making enterprises during this period. Apart from co-operative societies, registered under the Industrial and Provident Societies Acts, and building societies registered under the Building Societies Acts, the majority of these enterprises were administered by either central government, local government, or on an ad hoc basis.

As regards those bodies for which central government assumed responsibility there had long existed a considerable range of bodies which, whilst exercising governmental or official functions, enjoyed varying degrees of independence from the executive and which were moreover distinguishable from central government departments under the control of a Minister directly responsible to Parliament. Organisations which had always been associated with the State and which may be included in this category included the Royal Mint, the Royal Dockyards and the Stationery Office. Others were set up during this period to perform functions of a technical and specialist nature, examples of which, included the Tithe Redemption Commission[2], the Air Registration Board[3], and the Commissioners for Crown Lands[4] which although ancillary to a government department was barely distinguishable from it. An essential feature of all of these bodies was that, "they were created in order to undertake tasks of a specialised nature free from the direct executive control of Ministers although often subject to their influence or decisions on matters of policy."[5]

Closely associated with administration by central government but fundamentally distinguishable is the administration of public services by ad hoc bodies, commonly called Public Trusts, but latterly known as

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2. Tithe Act 1936.
3. Air Navigation Act 1936.
4. Crown Lands Act 1927.
5. W.A. Robson, Nationalised Industry and Public Ownership, (1962) p. 47.

Public Corporations. The basic rationale for this form of administration rested on the commercial or industrial character of the undertaking in public ownership which it was argued rendered it unamenable to normal governmental control. "The underlying reason for the creation of the modern type of public corporation is the need for a high degree of freedom, boldness and enterprise in the management of undertakings of an industrial or commercial character."[6] Similarly Gordon argues that, "in essence the public corporation represents an attempt to apply to public administration when extended to commercial enterprise the type of organisation evolved for larger scale private commercial administration by the joint stock company"[7]. Other commentators have, in contrast, ignored the form of administration and have instead focussed on the explanation of the antecedent nationalisation. Pollard, for example, argues that public corporations were essentially, "an attempt to cope with the problems of larger or nationally important industries, mostly requiring large capital sums, secure control of their market and a strong interest in general or social, as distinct from sectional, welfare"[8].

Concentration on the form of administration would however seem justifiable in that once developed it was deemed appropriate to the administration of any undertaking taken into public ownership, no matter the reason for that step. The argued for inappropriateness of undertakings of a commercial or industrial nature found its expression in the criticisms of the organisation of the Post Office in the nineteen-thirties. Until 1933 the Post Office was organised in the same manner as any other government department, in that all revenue was paid to the Exchequer and all expenditure was authorised by annual votes of Parliament. That form of organisation was increasingly

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6. ibid.

7. L. Gordon, The Public Corporation in Great Britain (1938) p. 3.

8. Pollard, op.cit., p. 172.

the subject of criticism by Members of Parliament. The Bridgeman Committee summarised the criticisms made as, "briefly to the effect that the Post Office was a large-scale commercial business, chiefly concerned with problems unconnected with party politics, for the efficient conduct of which the constitution of an ordinary Government Department, sometimes involving frequent changes of the Minister at its head, was ill-designed"[9]. Although the Bridgeman Committee did not recommend its reorganisation as a Public Corporation, its subsequent reorganisation did incorporate some features of the public corporation and effectively marked the demise of the government department as the appropriate form of organisation for the management of publicly-owned enterprises[10].

This transformation was in fact achieved remarkably quickly. The only pre-war examples of public corporations were the Dock and Harbour Boards, the best known of which was the Port of London Authority established in 1908[11]. The Authority enjoyed a large measure of financial autonomy from central government and was controlled through the representation of affected interests, including employees, on the Board.

Surveying developments at the end of the war, the Haldane Committee on the Machinery of Government criticised the public corporation or trust as essentially a means for the evasion of ministerial responsibility and regarded their increased use as therefore undesirable. "Attempts have been made to distribute the burden of responsibility by other means. In some cases recourse has been had to a system of administrative boards...we think that where...a Board is set up without explicit statutory provision for a Minister responsible to Parliament for their work, the position is obviously unsatisfactory. We feel that all such

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9. Committee of Enquiry on the Post Office 1932, Cmd. 4149 p. 7.

10. J.W. Grove, Government and Industry in Britain (1962) p. 54.

11. Port of London Act 1908, s.1.

proposals should be most carefully scrutinised and that there should be no omissions, in the case of any particular service, of those safeguards which ministerial responsibility alone provides."[12]

Despite its unfavourable comments, the Committee's Report had no influence on subsequent developments. In the same year two practical experiments in public enterprise were initiated by the Lloyd George government in the shape of the Electricity Commission[13] and the Forestry Commission[14]. The latter, although not primarily a trading corporation, was essentially commercial rather than regulatory or administrative, and represented a partial departure from the normal form of departmental administration. The Commission was headed by a Board, one of whose members was required to be a Member of Parliament so that the activities of the Commission would be the subject of overall Parliamentary scrutiny and control. It was, however, staffed by civil servants and its work was in practice the subject of strict Treasury control. Its organisation, staffing and financing imposed severe constraints upon the performance of its technical and commercial functions[15] and the experiment was not repeated in 1926 when the Conservative government set up the Central Electricity Board[16] to control the electricity supply industry although it was not then in complete public ownership. In the same year the British Broadcasting Corporation was set up under Royal Charter.

Not only did the inter-war period represent the formative period of the public corporation but it also saw its acceptance by all political parties as the appropriate form of administration for publicly owned undertakings. The Liberal Inquiry into Britain's

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12. Report of Machinery of Government Committee. 1918 Cd. 9230, p. 11.
13. Electricity (Supply) Act 1919, s.1.
14. Forestry Act 1919, s. 1.
15. Grove, op.cit., p. 53.
16. Electricity (Supply) Act 1926, s.1.

Industrial Future[17] specifically endorsed the principle and Herbert Morrison converted the Labour Party to it by applying the 'Central Electricity Board solution' to the problems of London transport through the establishment of the London Passenger Transport Board[18]. This formative period culminated with the establishment of the British Overseas Airways Corporation in 1939[19].

Although the growth of public corporations is one of the most important features of this period, the extent to which local authorities remained responsible for the administration of a wide range of services should not be ignored. These municipal enterprises included over one-third of gas works, two-thirds of electricity supplies, four-fifths of water supplies and a major proportion of transport[20].

(ii) Privately Owned Enterprises

In manufacturing industry the predominant form of economic organisation was the joint-stock company and their growth throughout this period was continuous. Between 1914 and 1938 the paid-up share capital of registered joint-stock companies with limited liability increased from £2,500 millions to £6,000 millions. Bu the late 1930's it was estimated that joint-stock enterprise accounted for about eighty-five per cent of the profits of manufacturing industry[21].

The development of the joint-stock company had from its inception been associated with the need for large sums of capital and it was accordingly in those sections of industrial activity dominated by large capital intensive firms that their development was most pronounced during this period. The Balfour Committee on Industry and

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17. Liberal Party Yellow Book (1928).
18. London Passenger Transport Act, 1933, s.1.
19. British Overseas Airways Act 1939, s.1.
20. Pollard, op.cit., p. 161. Macmillan, op.cit., pp. 137-43.
21. Pollard, op.cit., p. 162.

Trade which reported in 1929 emphasised this function in its examination of Company Law. "Such criticisms and suggestions as we have received have related to such questions as publicity, over-capitalisation, combinations and other incidental matters, but no one has suggested that the Acts do not successfully fulfill thier prime purpose of widening the area from which capital may be drawn into business enterprise"[22].

Although the Balfour Committee had expressed its satisfaction as to the performance by the Companies Acts of their prime function considerable debate did take place over the broadening of public control of companies[23]. Such innovations as were enacted were, however, peripheral and were rather directed towards the protection of the shareholder and the investor. On this the Greene Committee made extensive recommendations[24] which were incorporated in the Companies Act 1928 and which were later repealed and re-enacted in the consolidating Companies Act 1929. Similarly concern about the practice of 'sharehawking' or 'sharepushing' and the growth of Unit Trusts led to the reports of the Anderson and Bodkin Committees[25] whose recommendations were given effect to in the Prevention of Fraud (Investments) Act 1939 which increased the powers of the Board of Trade to supervise dealers in securities who were not members of a recognized Stock Exchange and Unit Trusts.

If however, public control of private enterprise did not in themain increase during this period, public assistance to private enterprise whether through the provision of financial assistance or the enactment of schemes for the restriction of competition increased

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22. Final Report of the Committee on Industry and Trade, Cmd. 3282, p. 45.
23. See for example, the Liberal Party Yellow Book (1928), and J.M. Keynes, "The End of Laissez-Faire" in Essays in Persuasion (1926).
24. 1927, Cmd. 2657. ,
25. 1936, Cmd. 5259, 1937, Cmd. 5539.

dramatically. Although this feature of the inter-war period will be examined in moredetail in later chapters some aspects of it may be briefly outlined here. The State, for example, intervened in private enterprise through the provision of loans and subsidies, as in the case of the North Atlantic Shipping Act 1934 which made available £9.5 millions, principally for the merger of the Cunard and White Star Lines and the construction of the Queen Mary. Intervention was also carried out through participation in the share capital of companies as, for example, in the Anglo-Iranian Oil Company, Cable and Wireless Ltd. and the Suez Canal Company. Such participation might or might not be accompanied by the right to appoint a director to the Board of the company. In this case the practice depended on whether or not the interests of the government and the company were regarded as being the same or potentially conflicting[26]. It was not, however, always regarded as politically expedient to admit that the government could exercise any control over a company[27].

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26. In the latter case a director would be appointed. See P.R.O. T. 171/330.

27. This was clearly illustrated in the discussions over the establishment of North EasternTrading Estates Ltd. "...The money for the venture will be provided by the Commissioner and I had originally intended that the Commissioner should take the debenture but provision is being made in the articles of the company enabling the debenture holder to appoint a director and when the matter was discussed at the Treasury Gilbert took the view that the Treasury rather than the Commissioner should make the appointment. In these circumstances as it was not desired to put into the articles any reference to an appointment by the Government, the suggestion was made and I concurred that the simplest way was to take the debenture in the name of the Treasury Solicitor." P.R.O. Lab. 16/16 Part 1 Feb. 1936. Sir Bernard Gilbert was Principal Assistant Secretary to the Treasury.

In relation to the restriction of competition the State intervened through the provision of schemes for the restriction of competition. The Coal Mines Reorganisation Commission was set up under Part II of the Coal Mines Act 1930 to enforce schemes for the reduction of capacity in the industry and the division of markets. Similarly bodies for the organisation of production were set up in agriculture[28]. The burgeoning of these relationships between the State and industry make it difficult to disagree with the conclusion of the Economist that "since 1932 the State has no longer appeared to industry solely in the guise of monitor or policeman; it has had favours to dispense...the attitude of industry to the state" has been revolutionised and "the policeman has turned Father Christmas."[29]

(iii) Trade Associations

The third prominent feature of this period was the growth of Trade Associations. Their development received a major impetus during the war and was continuous throughout the inter-war period. At their apex stood the Federation of British Industries its antecedents having been the Employers Parliamentary Association, formed in 1898 and the British Manufacturers Association . Formed in 1916 with 50 affiliated organisations, it had increased its membership five-fold within the decade. By the end of the nineteen-thirties it was estimated that there were some 1,000 to 1,200 in existence in manufacturing alone, with a similar number to be found in distribution and other spheres[30].

The explanation for this development may be sought at two distinct but related levels. Firstly the isolation and explanation of those

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28. For example, the Wheat Commission established under the Wheat Act 1932.

29. The Economist 18 Mar. 1936.

30. P.E.P. Industrial Trade Associations (1957).

factors contributing to the rise of trade associations generally and secondly the identification and explanation of those factors which, at the level of the individual industrial sector, provided an environment favourable to,and provided a motive for, association.

Although the growth of Trade Associations in the inter-war period was remarkable they had in fact been in existence as long as industry itself[31]. The first World War had however, greatly encouraged their expansion. Reporting in 1919 the Committee on Trusts said "that there is at the present time in every important branch of industry in the United Kingdom, an increasing tendency to the formation of trade associations and combinations, having for their purpose the restriction of competition and the control of prices."[32] The existence of shortages and the necessity of planning war production resulted in the intervention of government in all sectors of industrial activity in many instances for the first time. That process was greatly facilitated by the existence of Trade Associations which could speak with one voice for the industry concerned and their development was encouraged and, in some instances, instigated, by government[33]. Not only were Trade Associations important in consultation between government and industry but they were also used in the administration of controls. Grove comments that so impressive, indeed, was their record as administrative agencies and as advisers to Departments that the Balfour Committee reported in 1918 that it "was very desirable that in all important British Industries there should exist strong, comprehensive, and well-organised [trade] associations"[34]. Moreover not only did the war directly stimulate the

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31. Grove. op.cit. p. 6 and pp. 20-1.

32. Ministry of Reconstruction. Report of Committee on Trusts 1919. Cd. 9236, p. 2 .

33. P.E.P. op.cit. p. 11.

34. Grove, op.cit., p. 40. Committee on Commerial and Industrial Policy After the War. 1918, Cd. 9035, p. 35.

growth of trade associations through the intervention of government in industry but it also indirectly contributed to that process through revealing to industry the advantages to be gained from cooperation in its dealings with government.

In the inter-war period two particular aspects of economic policy contributed to their continued development. Firstly the response advocated to the problems of declining export markets and increased foreign competition was one of the 'reorganisation' and 'rationalisation' of the affected industries. Trade Associations were an essential feature of this trend towards self-government in industry. As Harris points out, moreover, rationalisation, without protection, provided no guarantee as to the success of any reorganisation. "At each stage, however, the attempts by some businessmen to control their domestic rivals was radically weakened by the continuation of tariff-free entry for foreign goods to the home market. Local producers had only very limited incentive to accept the 'discipline' of industrial organisation while the foreigner could scoop the home market...As a result, the 'rationalisation' of British industry...depended upon the success of efforts to achieve protection. And the introduction of protection depended upon the State, upon convincing the government of the day to end free trade. To survive business had to become involved in politics in a much more extensive way..."[35]. The success of the rationalisation movement therefore depended upon this second factor, that is the abolition of free trade and the achievement of protection. Not only did the imposition of protection, therefore, provide an incentive for association but the struggle to achieve protection itself contributed equally to that process.[36]

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35. Harris, op.cit., p. 33.

36. The P.E.P. study whilst highlighting the former contribution, ignores the latter. P.E.P. op.cit., p. 21.

Both factors were essentially facets of the same process; that is they were, as has been argued, reactions to the perceived exigencies of the economic situation which was one of declining or depressed markets and consequent surplus capacity. The development of Trade Associations during this period should therefore be seen as one feature of the response of government and industry to that situation. As Macmillan points out in prefacing an analysis of developments during this period, "it will show that in private industry the theory of free competition is also being largely abandoned in practice. Great efforts have been made with or without the assistance of legislation to enforce schemes of regulation and control which are contrary to the whole conception of free competition. These movements have arisen, it must be remembered, not in obedience to new theories, but as the reaction of practical businessmen in response to the changed circumstances in which industry and commerce have to be conducted"[37].

The moves towards self government in industry give some indication of the incentives towards association in the inter-war period. Rationalisation, itself, however, was a label which covered a variety of disparate approaches to the problems of British industry. Originally it had begun "as a movement to improve techniques, but it was soon mainly looking for savings by structural and economic rather than technical reorganisation"[38]. There were however a variety of other objects and factors which commended association and contributed towards their growth in individual industries and which may be briefly isolated here.

Firstly, the growth in Trade Associations was related to the increase in firm size and mergers. Where the average size of firms in an industry is large, then, either the number of firms is small or else the larger firms exercise a predominant influence. Both facilitate agreement which,

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37. Macmillan, op.cit., pp. 119-20.

38. Harris, op.cit., p. 33.

moreover, may be reached in order to maintain that dominant position[39].

Secondly the increasing technological component in industrial innovation may provide a motive for patent sharing agreements and the establishment of research associations. Thirdly, association may be induced by the existence of association at other levels of the productive and distributive processes. The British Iron and Steel Federation was formed in 1934, after the failure of British Steel Exports Association, with the assistance of the government to negotiate the imposition of quantitative restrictions on imports with foreign cartels. The government strengthened its bargaining position by temporarily raising the tariff on steel from thirty three and one third per cent to fifty per cent. Fourthly the possibility of monopolistic gain through the maintenance of prices and the control of output may similarly provide a motive for association. The hope of monopolistic gain need not, however, be an important factor in that economic survival itself may, in the face of a slump in demand, depend upon the restriction of output and the maintenance of prices.

The P.E.P. Study distinguished twenty-five different objectives of associations of which the most common were the maintenance of relationships with Government in the protection of members' interests, the provision of information to members and arbitration in disputes

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39. The seventeen Working Parties appointed in 1945 and 1946 revealed clearly that it was in these industries where the predominant size of firms was small that Trade Associations were at their weakest.

between members[40]. In addition there were a variety of other common functions. Technical functions included the financing of research and the standardisation of products. Associations also promoted members' interests through the provision of publicity. Commercial functions included the joint purchase of raw materials but the most important aspect of their commercial functions in this period was the regulation of the competitive process through the control of prices, the allocation of markets, the practice of resale price maintenance and the control of entry into the industry.

The growth of associations in the restriction of competition took place with the acquiescence and sometimes active assistance of the government. Although this feature of government policy will be examined in more detail in later chapters, it is important to note that the movement towards rationalisation and the restriction of competition was not a uniform one. As has already been indicated, it was precisely in those industries such as textiles where the predominant size of the firms was small that Trade Associations were weakest and that attempts at voluntary control were a conspicuous failure. These failures led to the advocacy of an Industrial Reorganisation (Enabling) Act by groups such as P.E.P. and the Industrial Reorganisation League under Lord Melchett. The objects of these proposals were clearly set out in the Liberal Industrial Inquiry. Speaking of Trade Associations it stated "...we think that cases may arise in which it is in the legitimate interests of the trade or industry that a small minority shall be required to conform to the rules which the majority have decided to impose upon themselves...we suggest, therefore, that, where an incorporated Association can show that 75 per cent of those affected

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40. P.E.P. op.cit., pp. 66-167.

are in favour of a trade rule or instruction...The Association shall have the right to apply for powers to issue an order enforcing the rule in question on all members of the trade or industry or of the appropriate section of it, whether within the Association or not."[41]

We may, therefore, conclude that the growth of Trade Associations during this period was part of a trend towards, "greater integration, and the supersession of unrestrained competition by methods of cooperation"[42]. Moreover, their growth in conjunction with the growth of monopoly represented the abandonment both in theory and practice of the ideal of a competitive economy and necessitates the examination of attitudes towards the restriction of competition in this period. That examination will however be undertaken after the exposition of the growth of concentration in this period and will be undertaken in relation to both of these developments.

(iv) The Growth of Concentration

Arndt comments that "the rapidly increasing monopolization of British Industry...was one of the outstanding features of British economic development during the nineteen-thirties"[43]. Before 1914 British industry had been dominated by the small or medium sized, highly specialised family operated and family financed, and competitive firm[44], the main exceptions being in the public utilities and heavy industries. By 1939, however, "there were few important industries which were not dominated by one or two or three large firms or combines"[45]. Before 1914 there had been an undoubted trend towards concentration: between

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41. Liberal Industrial Inquiry, op.cit., pp. 77, 93-4, 99.
42. Macmillan, op.cit., p. 172.
43. Arndt, op.cit., p. 128.
44. Hobsbawm, op.cit., p. 124.
45. Arndt, op.cit., p. 128.

the wars, however, it was to transform the economy. By 1935 firms employing more than five hundred workers provided more than half the total employment, and the two hundred largest firms employed one-third of all workers[46]. The increase in the size of firms was a part of the process of economic development. This trend was further accentuated by the war, the depression and government assistance. Concentration in the inter-war years was therefore a result both of the natural increase in size of firms and combinations both within and across industrial sectors.

There could be several motives for such arrangements. They could, for example, lead to economies of scale in production, the institution of better research and the achievement of greater efficiency. However, the concentration that took place within this period "cannot be primarily justified on grounds of efficiency and progress"[47]. As with the development of trade associations it was a part of the response of industry to the slump in demand which sought the maintenance of prices, the reduction of excess capacity and the restriction of output. Concentration was an integral feature of this process in that through it the control of competition could be more easily achieved. The object of all of these responses was, as has been argued, the maintenance of profits through the substitution of coordination for competition.

Although the logic of concentration derived from the economic situation in this period, the process was, moreover, a self sustaining one. Attitudes towards economic organisation were dominated by fears of excess capacity. Fears of increasing capacity would reduce the desire to invest in already monopolized areas. This restriction of investment would be offset by increased investment and consequent expansion in uncontrolled areas of the economy which would rapidly acquire the same characteristics of monopoly as the already monopolized areas.

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46. H. Leek and A. Maizels "The Structure of British Industry", Journal of the Royal Statistical Society 108 [1945] 1-2.

47. Hobsbawm op.cit., p. 217.

This analysis of developments in industrial organisation during the inter-war period has revealed the uniformity of the responses of industry to the problems which dominated those years. These responses carried with them profound implications for the Liberal-Conservative ideal of a free market economy based upon competition between its members. It therefore remains to analyse public attitudes towards the growth of concentration and the replacement of competition by coordination during this period.

(v) Reversal in Public Attitudes Towards the Restriction of Competition

A division may be drawn between governmental and judicial attitudes to the restriction of competition. Although the premises upon which their attitudes were based were different, the practical effect of their conclusions was similar; that is the endorsement of existing business and industrial practices.

The war had stimulated the growth of both Trade Associations and concentration and it was against the background of the post-war boom and rising prices that the control of profiteering was first advocated. The first expression of post-war concern was the appointment by the Ministry of Reconstruction of the Committee on Trusts which reported in 1919. The Report of the Committee is significant in that it raised for the first time the concept of a public interest which was not necessarily identical with the sectional interest of industry. Moreover, once the possibility of an incompatability of interests was raised it entailed, for government, the necessity of stating its position with regard to their control. The Committee stated that "we are unable to share the optimism of those representatives of associations who thought that under no circumstances was there any chance of their operations leading to excessive prices or to the detriment of the public. While fully recognizing the honesty with which the great bulk of business in the country is conducted, it is obvious that a system which creates virtual monopolies and controls is always in danger of abuse"[48]. Although the

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48. Cd. 9236, p. 8.

Committee regarded monopoly as being essentially undesirable, it did point out that certain advantages stemmed from combination in relation to the buying, selling, making and knowledge of products. "Great possibilities of industrial and commercial improvement lie beyond the confines of free competition, and are only to be realised by combination in one or other of its various forms; by informed consultation and cooperation, by formal association or by central amalgamation"[49].

The Committee recommended the institution of machinery for the investigation of monopolies, trusts and combines. The necessity of such machinery was heightened by the view expressed by the Committee that "Trade Associations and combines are rapidly increasing in this country, and may within no distant period exercise a paramount control over all important branches of the British Trade"[50]. The establishment of such machinery would not only dispel mistrust of the activities of Trade Associations but also provide fuller information on possible abuses. The responsibility for the investigation of initial complaints would rest with the Board of Trade, which, would, in instances in which a prima facie case was established, refer the case to the tribunal for investigation and report. The responsibility for remedial action would rest with the Board of Trade.

Following the report of the Committee on Trusts, the government introduced a Profiteering Bill which in the course of its passage through the House of Commons was amended to make possible the investigation of trusts and restrictive practices. The Profiteering Act 1919 gave the Board of Trade power to investigate costs, profits and prices. It could receive and investigate complaints and could declare what constituted a reasonable price. Where profiteering was established proceedings

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49. ibid., Study by John Hilton p. 16.

50. ibid. p. 11.

could be instituted against the seller who could be compelled to reimburse complainants. This exposition of the powers provided in the Act is significant in that it reveals clearly that the policy underlying the Act sought the control of abuse through the reduction of prices in instances where abuse was established, rather than its avoidance through the declaration of agreements illegal or else the breaking up of combinations.

A Standing Committee on Trusts was established under the Act, some thirty reports of sub-committees of which were prepared before the Act was allowed to lapse in May 1921. Its lapse coincided with the collapse of the post-war boom which had made high prices and profiteering possible. Thereafter the question of the control of restrictive practices was considered against the background of the growing economic problems of the inter-war period. The immediate intention of the Liberal Coalition Government was to pass legislation enabling it to deal effectively with the restriction of competition. Before any action could be taken the government fell in October 1922. There was, however, some indication that the government regarded the problem of the public mistrust of monopoly, highlighted by the Committee on Trusts, as having been solved. Speaking on theBoard of Trade Vote in March 1921 the Parliamentary Secretary to the Board of Trade endorsed the reports of the sub-committees of the Standing Committee on Trusts, "not because they disclosed that the Country is in grave jeapordy because of these combinations, but because it has disclosed the fact that these combinations in the great majority of cases are not abusing the position they have got"[51]. Although the Royal Commission on Food Prices, reporting in 1925, expressed the view that, "the time has come to equip somebody with power to deal with monopolies, trusts and

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51. Quoted in P.E.P. op.cit., p. 19.

combines which charge unduly high prices for the service they render to the public or suppress competition merely in order to maintain or expand their profits"[52], subsequent attempts to introduce legislation on the subject of monopoly were confined to private members' Bills. The first, introduced in 1923, was confined to the building industry whilst the second, introduced in 1925 was wider in scope but equally unsuccessful.

The reasons for this failure to introduce legislation and the apparent reversal in attitudes which it represented, were a consequence of the changed economic circumstances confronting industry and government after the collapse of the post-war boom in 1921 and coincided with the adoption of "rationalisation" as the solution to those problems. Government tended to emphasise the potential of Trade Associations as a means of securing reorganisation and was in general favourable to the growth of concentration. Moreover, fiscal policy directly contributed to that process. As Rowley points out, "the Trade Facilities Act 1921 empowered the Treasury to underwrite loans made to private firms from private sources provided that the loans were raised for aims that would promote employment. This facility encouraged the provision of expansion finance to firms. In 1926 the government allowed the remission of stamp duties on capital issues made consequent upon an amalgamation. In addition the banks, in close association with the Bank of England, were encouraged to assist rationalisation schemes involving amalgamations"[53].

The Reports of Government Committees similarly reflect this shift in attitude. The Balfour Committee on Industry and Trade which reported in 1929 gave its support to association and amalgamation as a means to the achievement of greater efficiency and rationalisation.

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52. Report of the Royal Commission on Food Prices, 1925, Cmd. 2390, p. 139.

53. C.K. Rowley, The British Monopolies Commission (1966) p. 27.

On the question of the control of monopoly and restrictive practices the Committee observed, "It is true that...when the Profiteering Acts were in operation there was a strong tendency to view with suspicion, amalgamation and agreements. It is evident, however, that in the post-war period there has been a much more general recognition of the economic importance of large-scale enterprise...and it cannot be doubted that war experience played a large part in the process of the education of the public"[54]. On the question of control the Committee recommended that the Board of Trade should survey developments but was not prepared to recommend legislative intervention. It commented that "those who regard such laws of industrial organisation as inherently noxious, from the point of view of the general public, will of course welcome any opportunity of investigation, as a step towards control or even suppression. This attitude was once very commonly met with, but so far as we can judge it is a form of opinion which, in the light of more mature experience, is rapidly becoming obsolete, and it finds no echo among the members of this Committee". Moreover, "we cannot conceal from ourselves the danger that a Bill, even if carefully restricted and safeguarded in its approach, might easily be so changed in Committee, as to become either a formidable impediment to industrial development, or alternatively a dead letter"[55].

The Greene Committee on resale price maintenance which reported in 1931, similarly endorsed prevailing monopolistic practices and recommended that there should be intervention on the grounds that the, "ordinary right of freedom to constract ought not to be withdrawn without some compelling reason"[56]. In the same year the Macmillan

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54. Cnd. 3282, p. 188.

55. ibid., p. 191.

56. Restraint of Trade. Report of Committee appointed by the Lord Chancellor and the President of the Board of Trade to consider certain trade practices (The Greene Committee) 1931.

Committee on Finance and Industry "added its powerful voice to the clamour of industry for reorganisation and association"[57].

The fear expressed by the Balfour Committee that a Bill if introduced might be amended in Committee so as to consitute a threat to reorganisation, contradicts its earlier claim that opinion in favour of regulation was rapidly becoming obsolete and suggests that organised opposition to the growth of monopoly and association did exist. In fact the process found unanimous approval in every section of influential opinion in politics and industry, no element of any political party being against it. This lack of organised opposition, as Hobsbawm points out, strengthened the shift in opinion that had taken place[58]. As we have seen the Liberal Party in Britain's Industrial Future called for self governing industries and the granting of statutory powers to a majority in an industry so that they could enforce a collective discipline on a minority. Whilst the majority of the Conservative Party led the way by example when in government, radical conservatives like Harold Macmillan advocated planning as a means "by which the interests of monopoly-producing organisations can be brought into harmony with the interests of the nation as a whole"[59]. Whereas, "the socialists though hostile in theory to concentration, were opposed to it, because it served private ends rather than at all costs. (In practice, the Labour movement was not opposed to it at all)"[60].

Discussion of legislative intervention to control the restriction of competition raises the question of the adequacy of the common law for the achievement of that purpose. As Cairns points out, however, "the trend

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57. Pollard, op.cit., p. 170.

58. Hobsbawm op.cit., p. 217.

59. H. Macmillan, Reconstruction, A Plea for a National Policy (1933) p. 25.

60. Hobsbawm, op.cit., p. 214.

of judicial authority in the first half of the twentieth century tended to assist rather than to put down restrictive arrangements[61]. There were in practice three doctrines of the common law which could have been invoked in the control of restrictive practices. These were the doctrines of monopoly, conspiracy and contracts in restraints of trade[62].

The doctrine of monopoly was inapplicable to the great majority of situations whilst the doctrine of conspiracy had little greater utility. The law had been laid down in the Mogul case[63] which established that an agreement to form a ring which prevented competitors from entering a market was not an indictable conspiracy and gave no cause of action to an outside party whose interests were damaged by it. The case was approved and followed in the 1925 case of Sorrel v. Smith[64] where a newsagent unable to get newspapers from a wholesaler whose supplies had been cut off in pursuance of a restrictive agreement was held not to be entitled to damages. The rationale for these decisions was that agreements in the pursuit of the parties' trade interests gave rise to no legal liability no matter the severity of the consequences for third parties. Only where malice towards the third party was established would liability attach. The doctrine of restraint of trade was equally ineffective in dealing with the restriction of competition. Although it provided for the evaluation of the public interest, this was a task which the judiciary were unwilling to undertake and the onus of

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61. Sir David Cairns, Monopolies and Restrictive Practices, in Law and Opinion in England in the 20th Century ed. Morris Ginsberg (1959) p. 176.

62. A full discussion of the law is to be found in R. Wilberforce, A. Campbell and N. Ellis, The Law of Restrictive Trade Practices and Monopolies, (1966) pp. 23-44.

63. Mogul S.S. Co. v. McGregor, Gow & Co. [1892] A.C. 25.

64. [1925] A.C. 700.

establishing that an agreement was injurious to the public interest was in practice a difficult one to discharge. The legality of the enforcement of agreements in restraint of trade was also upheld by the courts. In Ware and de Freville v. M.T.A.[65] the operation of a stop-list was held to be not actionable as a conspiracy in civil law and in Thorne v. M.T.A.[66], the House of Lords went further in holding that the payment of a fine as a condition of not being put on a stop-list did not amount to the criminal offence of demanding money by threats. We may therefore agree with Cairns, in conclusion, "that the judicial decisions of the first four decades of this century left those who wished to carry on restrictive agreements free to do so, so long as they kept the maintenance of their own business interests steadily before them as their primary object - which most of them were ready enough to do"[67]. It is, however, important to note that judicial approval did not stem, as in the case of business and government, from the perceived exigencies of the economic situation, but rather from the doctrine of privity of contract. By ignoring the economic basis of the doctrine, judicial decision-making upheld and approved its utilisation in the contradiction of its theoretical basis of a competitive free market economy. The result of judicial, business and political attitudes during this period was not, therefore, the achievement of greater efficiency through competition, but rather the sanctioning of restrictive and defensive monopoly and association.

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65. [1921] A.C. 435.

66. [1937] A.C. 797.

67. Cairns, op.cit., p. 178.

4. GOVERNMENT AND THE ECONOMY IN THE INTER-WAR PERIOD

Introduction

Implicit in the foregoing analysis, is the question of the relationship between the government and the economy. Since that relationship is fundamental to our subsequent study of the Special Areas Acts it is necessary at this stage to develop more fully our conception of that relationship and to assess its implications for our examination of the development of economic law.

The character of the intervention that took place in the inter-war period has been outlined in the previous two chapters and can be briefly summarised. Generally, the level of intervention, having decreased on the cessation of the war, increased, with the onset of the depression, to an unprecedented degree. Government firstly intervened in the protection of the new expanding industries and latterly in the basic declining ones, until with the imposition of protection and the abandonment of the gold standard it had assumed a measure of responsibility for the success of industry and the economy. Although the rationale advanced for the sought after reorganisation of various industrial sectors was the promotion of greater efficiency, that intervention took place against a background of output reduction and the elimination of surplus capacity and competition on the part of industry, in an effort to maintain prices and profits. Insofar as government either actively assisted, or else passively acquiesced, in this process, its intervention may be criticised as not only having failed, in the main, in its stated objective, that is, the achievement of greater efficiency, but as also having contributed to the entrenchment of monopoly and the abrogation of competition. Government intervention in the inter-war period has also been criticised as having been primarily defensive, negative, piecemeal, protective and ineffective and as having been pursued

with insufficient conviction. These qualitative judgements aside, the fact remains that there were both significant quantitative and qualitative changes in the volume and nature of government intervention in the inter-war period which were not accompanied by any contigious increase in the level of welfare intervention in the wake of the depression. Arndt's conclusion that the level of intervention in domestic economic policy did not increase during the nineteen-thirties would accordingly seem to be unwarranted; the period being rather more accurately described as one in which government became generally more aware of, and more accomodating to, the needs of the economy.

Having established the characteristics of government intervention in this period, our primary objective in our examination of the relationship between government and the economy must be the explanation of this increase in government intervention. The achievement of that objective necessitates a greater degree of generalisation than has hitherto been engaged in, for without it, it will prove impossible to arrive at any generalised conclusions about the development of economic law in the United Kingdom. The avoidance of the problem of historical immediacy, however, carries with it the attendant danger that we engage in a process of abstract schematization which bears no relationship to the concrete social situations which it is our purpose to examine. Our purpose in engaging in generalisation at this stage is therefore not only to enable us to draw conclusions about the development of economic law, but also, in the pursuit of that purpose, to increase the explanatory value of our concepts and argument, and to achieve a better ordering of our material in the advancement of that argument.

We may therefore advance the simply formulated proposition that the level of intervention, as reflected in economic law, is a product of both a set of objective economic circumstances and the extent to which these circumstances are regarded as necessitating intervention. The economic

background to the inter-war period has already been examined in the preceeding two chapters but it remains necessary to elucidate more fully, and assess the implications of, the meaning of the second half of the proposition advanced. The extent to which a set of objective economic circumstances are regarded as necessitating intervention is dependent upon the interpretation placed upon those circumstances by the social group or class in question. That interpretation is a result of the perspective or ideology of the social groups or classes, amongst which we shall, in the main, be concerned with political parties and governments.[1] The use of the concept of ideology thus provides a means for relating thought to action. As Mannheim points out, "it is not 'consciousness in itself' which arbitrarily chooses from several possible alternatives nor does the single individual construct an ad hoc theory to suit the needs of a given single situation; but it is rather that social groups having a certain type of structure formulate theories corresponding to their interests as perceived by them in certain situations. As a result, for each specific social situation there are discovered certain modes of thinking and possibilities of orientation. It is only because these structurally conditioned, collective forces continue to exist beyond the duration of a single historical situation that theories and possibilities of orientation also carry over. It is not until their structural situations change and are gradually displaced by others that the need for new theories and new orientations arise."[2]

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1. Perspective is used here in the Mannheimian sense of 'total' as opposed to 'particular' ideologies. The subsequent exposition of inter-war political perspectives thus provides the context for the analysis of specific ideological assertions. Karl Mannheim, Ideology and Utopia (1972) pp. 238-9.

2. ibid., pp. 156-7.

It is therefore the interaction of ideology with a specific set of objective circumstances that permits their recognition as a problem and indicates appropriate responses to it. That process we shall refer to as the conceptualisation of a problem. Differing conceptualisations of the same set of objective circumstances are the product of differing perspectives and may differ both laterally, that is, across social groups, and sequentially, that is, through time. There are therefore, two aspects to the development of economic law with which we shall be concerned; first, an objective condition and second, a subjective definition or interpretation. Whilst the first is necessary to the development of economic law, by itself, it is insufficient and it is in the latter that the forms and substances of economic law will be manifested.

The explanation of theincrease in intervention necessitates the examination of both aspects and the subsequent analysis will therefore concentrate on firstly, the economic background to intervention and secondly, on those aspects of inter-war political perspectives which either encouraged or inhibited intervention. Finally, in the conclusion of this chapter, the analysis developed will be applied in the explanation of the changes in unemployment legislation during this period.

(i) Economic Background to Intervention

The economic background to the intervention of the inter-war period has already been examined in detail and need only be briefly restated here.[3] As was seen the effect of the depression which culminated in the crisis of 1931 was to exacerbate and accelerate those trends affecting the British economy of an over reliance on the basic exporting industries and the necessity of making a shift of resources to the more profitable expanding ones whose production was primarily geared

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3. supra., chapter 2.

to the rising consumption of the home market. The immediate response of government to the crisis was the imposition of protection and the abandonment of the gold standard, in consequence of which, it assumed a measure of responsibility for the economy. The achievement of reorganisation thus, for example, became necessary to ensure the success of protection.

The necessity of intervention was further heightened by the response of industry to the slump in demand which basically sought the restriction of competition in an attempt to reduce capacity and output in the maintenance of prices. To the extent to which such schemes tended to preserve the existing industrial structure and to impede the necessary shift of resources from uneconomic activities to the new expanding industries, the responsibility of ensuring that the necessary changes were effected accrued to government.

It was therefore against this general background that government intervention was mooted and took place. It is, however, important to note that such a generalised statement of inter-war economic circumstances, is by itself insufficient for the explanation of particular examples of intervention. Their examination and explanation will require the establishment of the economic circumstances affecting each individual case.

(ii) Political Perspectives in the Nineteen-Thirties

Any examination of political perspectives in the nineteen-thirties must take as its starting point the impact on political activity of the economic and political crisis of the summer of 1931. Its effect generally was to reinforce existing patterns of political activity, thereby precluding the broadening of the political base of extra-parliamentary groups[4] the most

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4. The impact of the depression and subsequent recovery on the British Union of Fascists, the Communist Party of Great Britain and Wal Hannington's National Unemployed Workers' Movement is analysed in J. Stevenson, "Myth and Reality: Britain in the 1930's" in Crisis and Controversy (eds.) A. Sked and C. Cook, (1976) pp. 90-109.

emphatic expression of which was the return of a Conservative dominated National Government at the election of October 1931. It was essentially the product of the fear which dominated the politics of the period; the effect of which, "cannot be statistically measured, but, equally, cannot be left of any account of these years."[5] "Driven by patriotism and fear, as the Economist summed it up, the people had decided to play safe, and vote national, which usually meant voting Conservative."[6]

In analysing political perspectives in the nineteen-thirties three distinct political groupings can be distinguished: Conservatism, Socialism and what was later to be termed "middle opinion" or the "middle way".[7] Nothing would be more erroneous than to equate the existence of a National Government with the emergence of a political consensus leading to the abrogation of political conflict. Conservatism itself, cannot be depicted as a unified perspective in the nineteen-thirties. The party itself was rent by divisions over India and the Empire and latterly over rearmament and economic policy. These divisions were reflected in relation to our study, in the formation of the Special Areas Group of Conservative Members of Parliament in 1936, which existed in addition to the Northern Group which was essentially an inter-party grouping of Members of Parliament with regional affiliations. These divisions testify to the validity of Harris's conclusions that 'the Conservative party has always been a coalition of interests',[8] and highlight the importance of its having, "a leadership capable of reconciling contradictory groups."[9] Whether its dominating influence in the

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5. Hobsbawm, op.cit., p. 209.
6. Mowat, op.cit. p. 411.
7. A. Marwick, "Middle Opinion in the Thirties" (1964) English Historical Review. pp. 285-98.
8. Harris, op.cit., p. 13.
9. ibid.

nineteen-thirties, Neville Chamberlain, was successful in the achievement of that task must remain open at this moment but we may observe that his effect generally was to form a consensus at the level of government which alienated those whose ideas were not shared, and which in the continuing business of government was seldom dissented from.[10] That consensus was, however, in part, noticeably different from that of its pre-crisis predecessors. The policies pursued by the National Government in response to the crisis, which included the abandonment of thegold standard and the replacement of free trade by a general tariff and a system of imperial preference, effectively marked the end of Liberal-Conservatism and the emergence of a different relationship between the government and industry.[11] The inability of the Liberal-Conservative perspective to accomodate the changes taking place did not, however, result in its immediate or total rejection. Although the policies pursued represented, in part, a transition from a customary to a more rational mode of thought, they, in part, were equally the expression of the renewed fervour with which the uncritically held assumptions of the past were clung to. Nowhere was this more evident than in financial policy. We shall, however, reserve our exposition of financial policy until our examination of those aspects of the Conservative political perspective inhibiting intervention.

Oppositional politics in the nineteen-thirties exhibited a central paradox. With the eclipse of the Liberal Party there were two main political alternatives to Conservatism. These were, "the middle way of imaginative reform within capitalism, personified by Lloyd George and Keynes, and the Socialist way of abolishing capitalism. The socialist way had a popular organisation behind it, in the Labour Party, but on inspection socialism

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10. This feature of his administration is well documented and will be examined more fully below.

11. Harris, op.cit., p. 48.

proved to be a language of ideals rather than power. The pioneers of the 'middle way' spoke the language of power, but had no big battalions behind them. They were of all parties and hence doomed to be ineffectual."[12] In contrast to the polarity of right and left, the 'middle way' consisted of groups such as Political and Economic Planning, the Next Five Years Group and the Young Conservatives. Essentially they represented a reaction against the perceived failure of the economic system, which sought, through planning, the means for a vigorous attack on the social and economic problems of the period. Speaking of the "uneasy consciousness of something radically wrong with the economic system", Harold Macmillan, accurately summarises their origins when he observes that, "one of the consequences of the crisis was to confirm these suspicions and to liberate men's minds from a continued subservience to the economic orthodoxy of the pre-war world."[13]

Although these groups constituted a lobby in favour of planning as a remedy for economic and social problems and must therefore be regarded, in their immediate historical context, as having been largely ineffectual, their significance was not confined to the nineteen-thirties. Marwick suggests that these groups of progressive opinion had a greater significance than merely that of being in disagreement with the dominant perspective . Together they constituted a very large 'groundwork of social and political agreement in the 1930's'[14] from which emerged the ideological structure of the mixed economy which was to take Britain through the nineteen-forties and fifties. It was thus in this period that the concepts of the welfare state, continuity of economic policy and a rejection of overall planning received their vital nurture.

Although immeasurably more powerful, the dilemma of the Labour Party was no less acute. Not only was it weakened by the fact that it had been smashed at the General Election of 1931, but also by the fact that although committed to the achievement of socialism through constitutional means, it

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12. P. Addison, The Road to 1945. British Politics and the Second World War (1975) p. 35.
13. Macmillan, The Middle Way, op.cit., p. 8.
14. Marwick, op.cit., p. 285.

was, at that level, fundamentally ill-equipped to either formulate alternative policies to those of the National Government or to decide on a policy for the achievement of socialism. Although these weaknesses were a part to be overcome by Hugh Dalton and Herbert Morrison, they meant that for most of the decade the Labour Party could be safely ignored in the context of parliamentary conflict, that is at the level of the formal rationalisation of political conflict.

(iii) Aspects of Political Perspectives Encouraging Intervention

The conception of Conservatism as fundamentally opposed to intervention in the economy is misconceived. Glickman in his analysis of the Conservative ethos in the inter-war period argues that the conservative view of society as an organic body, induces a paternalistic conception of society which in turn yields in modern times a continuing concern for communal responsibility and strong government.[15] The accuracy of his contention can be illustrated by an examination of the perspective of Neville Chamberlain. There are two reasons for undertaking that examination in relation to Neville Chamberlain. Firstly he exercised a dominating influence on conservative policy between the wars[16] and secondly and relatedly, the credit for the inception of the Special Areas legislation is normally accorded to him.[17]

That his influence was both dominating and ubiquitous is not the subject of disagreement. "In relation to policy he was always ready to take the lead...his ideas were positive and clear cut; he was tenacious in pursuit of them, whether in the Cabinet itself, or its Committees, or in the conversations that, as in all governments, were continually proceeding among its members."[18] The influence and control he exercised over the formulation

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15. H. Glickman, "Tory Ethos and Conservative Policy in Britain: The Role of Party Ideas in Party Policy 1922-1939" Unpublished Ph.D. thesis, Harvard, 1958.

16. Mowat, op.cit., p. 414.

17. K. Feiling, The Life of Neville Chamberlain (1946) p. 231.

18. Viscount Samuel, Memoirs (1945) p. 215.

of policy was, however, only one aspect of his control over both his own party[19] and more importantly, the machinery of government. As regards the latter his position as Chancellor of the Exchequer and later as Prime Minister enabled him to exercise his influence over every aspect of the work of government. "Under Neville Chamberlain as Chancellor and later when he lent his support as Prime Minister to his successor, Sir John Smith, the Treasury's grip on policy was in some ways even stronger. The rule that papers should be circulated only after they had been seen by all the departments concerned became a bulwark of Treasury policy."[20]

Such a strict framework of control could not but have its effect on opinion within his party. In particular, two complementary effects can be isolated. Firstly, as we have already noted, the effect of his leadership was to form a consensus at the level of government through the fostering of closer links with those whose ideas he shared. "He seemed at once to crystallize all the fluid forces in the Cabinet".[21] The second effect was the counterpart of the first in that those elements in the Conservative party whose ideas he did not share were alienated from the leadership. "There was a tendency for those whose minds ran on similar lines to find themselves drawn into closer cooperation with the Prime Minister while those who had reservations fell back. The same attractions operated on the Civil Service, so that Horace Wilson became the Premier's chief assistant in London".[22]

An examination of Neville Chamberlain's perspective confirms the accuracy of Glickman's contention that Conservatism was both in favour of a strong central authority and not averse to intervention. The object of

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19. J.P. Mackintosh. The British Cabinet (2nd edition 1968) p. 480.

20. Mackintosh, op.cit. pp. 461-2. H. Daalder, Cabinet Reform in Britain 1914-63 (1964) p. 203.

21. Viscount Templewood, Nine Troubled Years,(1954) p.386 quoted in Mackintosh op.cit. p. 480.

22. Mackintosh op.cit., pp. 480-1. Horace Wilson was to exercise an important influence on the development of the Special Areas legislation.

Chamberlain's life's work was 'to set on unshakeable foundations a triple partnership between the State, the employer and the worker'.[23] That object embraced 'a conviction that for the most important services large areas must replace small, a radical readiness to use the unifying power of the State, an experienced belief in flexibility, [and] a resolution that society should first help those who helped themselves."[24] His purpose, in his willingness to use the power of the State, was however less social, than what may be termed administrative rationalisation. Gilbert points out that, "he was concerned less with what was to be done than how it was to be done. If social legislation is conceived as the transfer of wealth to needy individuals in the population, his care was for the method of payment rather than the alleviation of hardship."[25] While that emphasis had important consequences for Conservative inter-war policy in that, "it seldom transcended the slow evolution of administrative logic in home affairs"[26] it did not detract from the fundamental point that inter-war Conservatism did not present any barrier to the utilisation of the power of State in the pursuit of those goals regarded as legitimate. Rather the Conservative tradition was directly inducive to the taking of that step.

Encouraging that tradition in the immediate context of the inter-war period was the recognition and belief, which was not uniformly held, that a solution to the difficulties of industry could only come about through the assistance and active intervention of the State. In a memorandum attached to the Final Report of the Balfour Committee, seven of the Committee's fifteen members, stated their conclusion that, "we find it impossible to agree with our colleagues that reorganisation, whose economic

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23. Feiling, op.cit., p. 132.

24. ibid. p. 130.

25. Gilbert, op.cit., p. 196.

26. Addison, op.cit., p. 29.

necessity they admit, can or will in fact take place except through the initiating activity and with the support of the State."[27] As we have seen this expression of the necessity of government intervention found its realisation in the reorganisation legislation of the period.

The propensity to intervene was further encouraged by the depression and crisis of 1931 which prompted an reassessment of what were in many instances the uncritically held assumptions of the past about the proper role of government in relation to the economy. This reassessment was both the expression of the transition from a customary to a more rational mode of thought and the logical corollary of the perceived necessity of government intervention. We can illustrate this influence by the example of the principle of the non-subsidization of private industry which was finally and irrevocably breached in the inter-war period. Commenting on the provision of loans and subsidies to firms within the depressed areas, the Times said, "it gradually came home to public opinion irrespective of party, that it was irrational to allow the doctrine of not subsidizing private industry to overrule permanently the major truth that industry was what the areas needed above all."[28] We can therefore conclude that the legitimate boundaries of government intervention are not solely determined by a priori political perspectives but are in turn influenced and lent shape to by perceived economic necessities, a process which entails of necessity the change of perspective to accommodate developments in policies.

At the more immediate level of intervention in specific industries we may observe that the propensity to intervene was further encouraged by the fact that the impetus for intervention came, in part at least, from those industries themselves. In that intervention was sought by industry its

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27. Cmd. 3282, p. 311.

28. The Times 1 Nov. 1937. emphasis added.

acceptability was increased and there was little opposition to it. "The needs of the crisis-stricken industries cried out for government action and the short period of decontrol was therefore followed by an unprecedented era of state intervention in business which was palatable only because it was so obviously in favour of business."[29]

The various pressure groups which comprised the 'middle way' also advocated increased government intervention. Their influence, although increasing towards the end of nineteen-thirties, was however diffuse and cannot be regarded as having significantly influenced the dominant political perspective of Conservatism.

We may therefore conclude that the inter-war period saw significant changes in attitudes towards the proper functions of government in relation to the economy and that there is no evidence to support the view that governments approached the question of intervention in purely dogmatic terms. The extent to which, however, the policies of the National Governments after the crisis of 1931 were the renewed expression of the uncritically held assumptions of the past necessitates the examination of those aspects of the Conservative political perspective inhibiting the propensity to intervene.

(iv) Aspects of Political Perspectives Inhibiting Intervention

At first sight the description of the Conservative perspective as an admixture of change and continuity appears paradoxical. That apparent paradox can, however, be resolved by the realisation that although the crisis of 1931 effectively marked the demise of Liberal-Conservatism, it did not mark its immediate replacement. The post-war ideology of the mixed economy with a commitment to full employment and the welfare state, although, as has been pointed out, emergent in the nineteen-thirties was

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29. Hobsbawm, op.cit., p. 241.

never dominant and only achieved universal political acceptance during the Second World War. The crisis of 1931 was insufficient to force a total change of perspective and indeed the policies pursued after 1931, in the context of the subsequent recovery appeared increasingly to vidicate that perspective. We may therefore characterise the period between 1931 and 1944 as being in essence pre-Keynsian.

Many of the criticisms of conservatism in the nineteen-thirties are therefore essentially misdirected in that they ignore both the significance of the Conservative perspective and hence its unique nature and the extent to which it did not provide the means for the solution of the problems of the period. Branson and Heinemann, for example, depict the Conservative leadership as being "noteably aged, backward-looking and inert".[30] Undoubtedly there is an element of truth in such criticism but the counterpart criticism of their failure to find a cure for unemployment ignores the fundamental point that neither Baldwin or Chamberlain believed that there was any permanent cure for unemployment.[31] Neither was the belief particular to the leadership of the Conservative Party for it was common to the dominant strata of most sectors of political and business life.

The recognition that political perspectives not only express and define and view of the social world but also limit the range of actions available in relation to it, is fundamental to the understanding of this period. It leads not to the criticism of the individuals who were the bearers of that

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30. Branson and Heinemann, op.cit., p. 17.

31. See for example, speech by Baldwin in Cardiff, 19 July 1936, reported in theTimes 20 July 1936, and see Feiling, op.cit., p. 286. "The great cry of their opponents was for a cure for unemployment. But it was discovered it did not exist."

perspective but rather to an understanding of significance of their actions in relation to it. This view of the influence of inter-war political perspectives finds support in the description by Lewis of inter-war economic policy. "Ideas are always behind the events which generate them. British economic doctrine was formed in an era when Britain was securing an ever increasing amount of trade, and in no need to worry about the balance of payments. So long as this continued the role of government in the economic system was small; the person who counted most was the export trader and the industrialist whom he fed. After 1920, the export trader was no longer a source of dynamic for the British economy; he was instead, a source of stagnation, and problems were left which only vigorous action by government could solve. But the philosophy of the twenties and thirties was still the philosophy of the early 19th century; there was no room in it for a vigorous economic policy, and so none was forthcoming."[32] Political perspectives may therefore not only serve to encourage intervention but also to inhibit or limit it.

Having examined the general inhibiting effects on intervention of political perspectives we may turn to specific aspects of the inter-war Conservative perspective. The clearest expression of the extent to which the uncritically held assumptions of the past were clung to was financial policy. The initial reaction to the crisis was to pursue strict financial orthodoxy, that is, balanced budgets and reduced government expenditure, under the requirements of which, all other policy was subsumed, although the economic rationale of such a policy had in fact disappeared with the abandonment of the gold standard. Despite the absence of an economic rationale, the policy of financial stringency remained central to the Conservative perspective in that it was regarded as the basis of the restoration and maintenance of general business confidence upon which the recovery was seen

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32. Lewis, op.cit., p. 88.

as dependent. The policy of strict financial orthodoxy was reinforced not only by the belief that excessive government expenditure would shake business confidence, but also by the complementary belief that no social goals would be achieved by such a policy. The Conservative perspective in this instance not only led to a policy of strict financial orthodoxy but also precluded a policy of public expenditure in the relief of unemployment. Churchill, as Chancellor of the Exchequer in 1929 had clearly stated the view of Conservatives, the Treasury and orthodox economists when he told the House of Commons that, "it is orthodox Treasury dogma, steadfastly held, that whatever might be the political or social advantages, very little additional employment can, in fact and as a general rule, be created by State borrowing and expenditure."[33] Neither was the policy of the subsequent National Government's to change. Both Stanley Baldwin and Neville Chamberlain personified this policy of strict financial orthodoxy; both believed, "the rather simple economic philosophy that state spending was money wasted to the economy,"[34] a policy which, moreover, in the context of ensuing recovery, appeared increasingly vindicated.

The propensity to intervene was also inhibited by the more politically immediate recognition that "to step down into the economic arena" would, involve acceptance of responsibility for the results of intervention with a concomitant commitment to further intervention and establish a precedent for further intervention. The dilemma facing the National Governments was summarised by Aneurin Bevan in the second reading debate on the Depressed Areas Bill 1934 when he observed that "if they step down into the economic arena they either have to accept sole responsibility for what happens and do the whole job themselves, or they have to intervene on behalf of one competitor against another, and lay themselves open to charges of corruption."[35]

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33. Beer, op.cit., pp. 1-2.

34. Gilbert. op.cit., p. 193.

35. Hansard 5th Sers. H.C. Debs. vol. 295 col. 1313, 3 Dec. 1934.

That the leadership of the Conservative Party was aware of the dilemma was made evident, when, at the Annual Conference of the Party in October 1936, delegates, pressing for intervention in the depressed areas, were reminded that they would be better employed if they were to emphasise the extent to which conditions in the areas had improved, "rather than if they tried to create an atmosphere that those areas could only recover with government assistance."[36]

The shift from a supervisory to an interventionist state in the inter-war period, therefore presaged acute problems of the extent to which intervention should go and the principles to be observed in its implementation, which, although recognised, were not seriously debated or resolved. The process once embarked upon appeared politically impossible to reverse, subsequent discussion being concerned more with its justification than the determination of principles governing its future application.

(v) Classification of Intervention

We can on the basis of the preceeding analysis establish a classification of intervention, consisting of three related dichotomies, which, although not purporting to be exhaustive of types or possible classifications of intervention, is an explanatory prerequisite of our examination and explanation of the Special Areas legislation. Our justification for its inclusion is therefore based upon both its codificatory and predictive value, in that it will both enable us to acheive a better ordering of our material and to seek and predict relationships between phenomena that do not seem immediately connected. The first dichotomy is based upon the area of intervention and the second and third upon its nature and purpose.

In examining the intervention of the inter-war period we can draw a distinction between economic and welfare intervention, the major part of the intervention of the National Governments falling into the former category. Policy in the latter area, was,particularly after the crisis of 1931, dominated by the doctrine of financial orthodoxy; considerable effort, as will be seen in our examination of unemployment legislation,

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36. The Times, 3rd Oct. 1936.

being expended upon achieving a reduction in the volume of welfare expenditure and consequently, the level of welfare intervention. "The depression did not lead governments towards the welfare state, it led them into desperate efforts to prevent its extension."[37]

Government intervention may also be classified according to its nature. We can distinguish between supportive and directory intervention, each being historically specific, that is the product of a particular perspective. The Conservative perspective in the inter-war period whilst allowing for and justifying intervention was limited to the former type. It was essentially characterised by an acquiesence in, and reliance upon, private initiative within the framework which protection provided, rather than by attempts to determine the future course of an industry's development. That is not to say that planning did not take place in the inter-war period but rather that such planning as did occur was not undertaken by government, although the responsibility for dealing with the consequences of such planning frequently accrued to government. Planning was the logical counterpart of the replacement of competition by coordination although it was, as of yet, not regarded as a function of government. As Aneurin Bevan pointed out, 'the real planners of the basic industries of Great Britain at this time are the banks, and the banks are doing it quite irresponsibly without having to answer to anybody. They exert governmental powers, sentencing some areas to death and giving a reprieve to others."[38]

The recognition that the carrying on of economic activity may entail government intervention in the mitigation of its consequences necessitates finally, consideration of the purpose or function of intervention generally. In particular we may distinguish between what we shall term enabling and neutralising intervention. In the performance of the former the State enables the carrying on of economic activity through, for example, the

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37. Hobsbawm, op.cit., p. 241.

38. Quoted in M. Foot, Aneurin Bevan, Volume I 1897-1945 (1973) pp. 199-201.

provision of a legal framework which performs the fundamental role of providing certainty and guaranteeing security of expectations.[39] Enabling intervention may equally find its expression in the more limited, but equally fundamental for the actors concerned, provisions by Government of a power to do something which could not have been done without government assistance. The nineteen-thirties provide the example of the provision by government of a power, to a majority in an industry, to coerce a minority into schemes for the reduction of output. Enabling intervention is not therefore particular to a minimalist conception of the role of Government but is equally compatible with a more interventionist conception of its functions in relation to the economy.

A necessary corollary of this function is the rendering of the consequences of the carrying on of economic activity politically acceptable. As Rimlinger points out, "even a highly individualistic society, one that stresses individual responsibility, may legitimise social protection, for the common interests in political and social stability or in economic productivity."[40] Accordingly we would expect government to intervene to neutralise problems or conflicts perceived as inimical to its political future and hence the continued carrying on of economic activity. The performance of this function may have as its consequence the neutralisation of the problem through its removal, that is its solution. That is not, however, a necessary consequence and a problem may equally be successfully neutralised through, for example, the denial of its existence or its translation into

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39. Closer identification between business and government may, however, obviate the need for legal rules in the performance of this function. See, for example, the examination of contemporary Brazil in D. Trubeck, "Towards a Social Theory of Law", (1971) Yale Law Journal pp. 1-50.

40. G.V. Rimlinger, Welfare Policy and Industrialisation in Europe, America and Russia (1971) p. 138.

another form. The conception of intervention as purpose oriented therefore conceals a double aspect. On the one hand there is an instrumental aspect; the achievement of economic goals, and on the other, a legitimating aspect; the guaranteeing of the carrying on of economic activity and the rendering of its consequences politically acceptable. Neither aspect necessitates recourse to law exclusively, but we may expect to find their reflection in substantive economic law.

(vi) Unemployment Legislation in the Inter-War Period

There are two reasons for undertaking a case-study of unemployment legislation in the inter-war period. Firstly it is illustrative of the themes which we have discussed in this chapter and secondly an exposition of the main features of the unemployment legislation is a necessary prerequisite of our study of the Special Areas Acts. Essentially the enactment of the Special Areas Acts was a result of the inadequacy of existing norms and institutions for the relief of unemployment in conditions of severe, localised unemployment. As Davison points out, "various national policies applied to all unemployed workers. Superimposed upon these policies a group of special measures was gradually adopted for the assistance of areas where unemployment was more intense, more persistent and, to a large extent different in kind from that which affects the rest of the country."[41] It is for these two reasons that the examination of unemployment legislation is appropriate here.

(a) Pre-1931 Legislation

The history of the relief of unemployment is primarily one of its elevations from a local to a national responsibility. Before 1931 there were three schemes for the relief of unemployment. Firstly, there were the provisions of the Poor Law, "the operation of which it was hoped would ideally; cost as little as possible, drive unemployed labour resources on

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41. R.C. Davison, British Unemployment Policy, (1938). p. 94.

to the free labour market and discourage the growth of the population." Above all it was intended to act as a deterrent against what was regarded as a shortcoming on the part of the individual rather than a result of the working of the economic system and was "in any case [to be] "less eligible" than the lowest paid and the least attractive jobs on the market."[42] Ramsey Macdonald echoed this view in 1931 when, in a broadcast to the nation he said, "unemployment benefit is not a living wage; it was never meant to be that."[43]

Its reform was necessitated by "the inability of the New Ministry of Health and of the guardians to find a means by which adequate relief could be given to hundreds of thousands of English citizens and their families without debauching every principle of prudent finance,"[43a] and in particular by the disintegration of central control over the administration of poor relief by the local Poor Law Guardians. Reform culminated with Neville Chamberlain's Local Government Act 1929 which essentially transferred the administration of the Poor Law to major local authorities who were required to form Public Assistance Committees for its administration. The reform of the Poor Law exemplified the inter-war Conservative perspective in that it reflected a willingness to use the unifying power of the State in the replacement of smaller units by larger units with the object of restablishing central control and the principles of sound finance. The introduction of the second form of relief, unemployment insurance in 1911 was the result of the

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42. Hobsbawm, op.cit., p. 229.

43. The Times, 25th Aug. 1931.

43a. Gilbert op.cit., p. 213.

development of a more scientific conception of unemployment, as the result of seasonal or cyclical fluctations, and constituted a recognition that the provisions of the Poor Law no longer exhausted public responsibility for the relief of the unemployed. The principle of insurance rested on two beliefs. Firstly it rested on a belief that any scheme should be based upon the principles of sound finance, that is, it should be self-financing; those in work and their employers contributing towards the maintenance of those out of work. Secondly it rested on a belief in the paramount importance of individual independence and self-improvement. The rationale underlying the use of the organising power of the State was not therefore, the creation of a social minimum income, but rather, the provision of assistance as an inducement to self-help.

Part II of the National Insurance Act 1911 instituted a scheme of unemployment insurance for seven industries including three of those most prone to cyclical fluctations; engineering, shipbuilding, and building. In all the scheme extended to about one sixth of the total industrial labour force. Inter-war developments therefore rested upon this pre-war basis. The Unemployment Insurance Act 1920 extended the scope of the 1911 Act to virtually all occupations and in so doing laid the basis for the problems which were to surround unemployment insurance for the next decade. The description of the Unemployment Insurance Act 1920 as an extension of the National Insurance Act 1911 whilst formally true in that it consisted substantially of the re-enactment of the provisions of its predecessor, ignores the significance of the change in social and political attitudes underlying its enactment, which were a fundamental part of the background to its operation in the nineteen-twenties. Gilbert summarises the changes thus, "in essence what had been given in 1911 as a narrowly restricted and carefully guarded privilege to well-established workers in a few select industries was in 1920 accepted by both the governors and the governed as

a prerequisite of citizenship, a right to a national minimum that had been arrived at in an unspoken compromise between British politicians and the citizens who elected them."[44] The bill itself was non-contentious; backed as it was by the now respectable precedent of the National Insurance Act 1911 and by a desire to avoid social unrest as a consequence of demobilisation. By the time the Act came into operation, however, it was already inadequate to deal with the conditions it had been enacted to meet.

The scheme embodied in the Act had been calculated on an assumed unemployment rate of 5.32 per cent. As soon as it was implemented the post-war slump saw the rate rise to 10 per cent where it was to remain for the rest of the decade, thereby destroying the actuarial basis of the scheme.

Once unemployment insurance benefits had been exhausted, the unemployed became the responsibility of the Poor Law. Successive governments were accordingly caught between two conflicting philosophies of the relief of the unemployed; between, on the one hand, the maintenances of the principle of self-help or else acquiescence in the principle of relief according to need. Their dilemma was therefore how to retain the principles of insurance and solvency, "while at the same time preventing the hundreds of thousands who had exhausted their benefit entitlement from being treated as paupers."[45] The change in political attitudes underlying the enactment of the Unemployment Insurance Act 1920 effectively signalled the demise of the former philosophy. "The onset of heavy and continuous unemployment in 1921, swamped the new scheme, and wrecked its solvency, piling an "ever changing mass of doles" on top of the system of insurance. For once the principle of state aid to protect the unemployed workers from the consequences of industrial fluctuations was accepted, the state's aid could not be withdrawn just because it was irreconciliable with a system of insurance; payments which were not covered by previous contributions would be expected and would be granted."[46]

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44. Gilbert, op.cit., p. 32.

45. Pollard, op.cit., p. 249.

46. Mowat, op.cit., p. 46.

The abrogation of the philosophy of self-help did not however presage a conception of unemployment relief as being based on need, but rather led to a view of it which can be equated with our concept of neutralising intervention. "Unemployment insurance became a kind of compensation paid to the working classes in return for being allowed to retain a system in which unemployment was unavoidable. There seems to have been an element of political insurance, by means of compensation for the differential impact of economic hardship, in the social legislation of this period."[47]

The contradictory philosophies of unemployment relief were never directly confronted by governments, who instead resorted to political expediency in their attempts to grapple with the problem. In 1925 the Conservative government appointed the Unemployment Insurance Committee under Lord Blanesburgh to consider what changes, if any, ought to be made in unemployment insurance. The Committee, in its Report, failed to distinguish between frictional and structural unemployment thereby effectively precluding the solution of the problem of the Insurance Fund, which was designed for the relief of the former, and preventing discussion of the problem of structural unemployment from which, as we have seen, the problems of the nineteen twenties stemmed. Instead it recommended the relaxation of the conditions of eligibility for benefit and the establishment of a third form of relief to be known as 'intermediate schemes', for those who did not satisfy the relaxed conditions of elegibility for unemployment insurance. The Committee's recommendations were implemented in the Unemployment Insurance Act 1927.

The recommendations of the Committee were based on the assumption of a declining rate of unemployment which would limit the period during which the payment of the new form of relief would be necessary. Accordingly the Act provided for the cessation of what was now known as 'Transitional benefit' in April 1929. Once again the assumption proved unfounded and the Labour

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47. Winch, op.cit., p. 112.

government extended the period during which transitional benefit would remain payable four times and provided for the whole cost of payment and administration to be borne by the Treasury. Apart from its ad hoc nature the institution of the scheme of transitional benefit marked a partial reversion to the philosophy of the Poor Law. Like the Poor Law, relief did not stem from a contractual right but depended upon "need" which was determined by the local authorities who were responsible for the administration of the scheme. Local authorities' determinations of need varied widely, introducing further divergence and irregularities into a system for the relief of unemployment already characterised by its lack of uniformity. In general "the level of assistance has varied widely with the political complexion, the social theories and the financial status of the individual relief authorities."[48]

(b) The Crisis and Unemployment Legislation

The effect of the depression on the relief of unemployment was to increase unemployment in both the insured and uninsured sections of the working population and hence to increase the financial burden of unemployment relief. It is arguable that the mounting cost of relief led to the political crisis of 1931 in that the Labour Cabinet split over the recommendation of the May Committee on National Expenditure that the cost of unemployment insurance be reduced by £66½ millions.[49] The subsequent policy of the Conservative dominated National Government exhibited two distinct aspects of the inter-war Conservative perspective. Financial orthodoxy underlay the attempt to secure a reduction in the financial burden of administering schemes for the relief of unemployment and a return to solvency for the Unemployment Insurance Fund while administrative rationalisation was at the heart of its attempt to establish uniformity of administration. The latter entailed not only the establishment of centralised control and its corollary; the uniting of spending power and

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48. E.M. Burns. British Unemployment Programs. 1920-38. (1941), p. 28.

49. Cmd. 3920. Report of the Committee on National Expenditure, 1931.

financial responsiblity, but also the final transition of the responsibility for the maintenance of the unemployed from a local to a national level.

The immediate step taken by the National Government in the autumn of 1931 was to secure the passage of the National Economy Act 1931 which provided a power to make economies in specified ministries for one month by Order in Council. Under Orders made under the Act the government cut the rate of benefit, increased contributions and instituted a means test.[50] Unemployment benefit as a right was limited to a twenty six week period and those ineligible had to apply for transitional benefit, eligibility for which was determined by the Public Assistance Committees. The effect was to put many of the unemployed who had continued to receive benefit, as a result of the relaxation of conditions of eligibility in the nineteen-twenties, into the hands of the Poor Law Authorities for the first time. Political dissent and protest at the operation of the means test was widespread. Some of the Public Assistance Committees did not share the Government's view of the necessity of the means test and ignored it in determining rates of relief, preferring to allow the maximum payable. Threats of action ensured that the majority of dissenters implemented the law whilst the minority were replaced by Commissioners charged with administering the means test in the approved manner. In the immediate period after the crisis of 1931 the emphasis was therefore upon reducing the cost of relief of unemployment largely through the reduction of benefit and the restriction of eligibility.

(c) The Unemployment Act 1934

The second aspect of policy, the rationalisation and centralisation of existing schemes for the relief of unemployment, was implemented through the Unemployment Act 1934. Although normally regarded as the result of the Royal Commission on Unemployment Insurance,[51] the credit for the inception of

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50. Unemployment Insurance (National Economy) Orders, Nos. 1 & 2. 1 & 7 Oct. 1931.

51. The Holman Gregory Commission. Interim Report, Cmd. 1931, 3872, Final Report, Cmd.. 1932, 4185.

schemes established in the Act is largely that of Neville Chamberlain.[52]

Part I of the Act dealt with unemployment insurance, Part II with unemployment assistance. The object of Part II was to sever the link between the Public Assistance Committees and the unemployed and thus secure uniformity of administration. The Public Assistance Committees had no financial responsibility for transitional payments and yet as elected bodies were the subject of political pressure. "It was not merely that the most heavily loaded local bodies could not carry the relieving over a long term of one or two million unemployed, but that local elections were turning more and more often on the liberality of public assistance, and that local councillors would not face the odium of seeing their names chalked as grinders of the faces of the poor."[53] By severing this link it was hoped that the existing anomalies in rates of relief would be removed and uniformity of administration secured. Uniformity of administration, whilst a goal of good administration, was not an end in itself; it also represented a method whereby the overall cost of unemployment relief could be reduced. "Not to end unemployment but to relieve the unemployed as economically as possible was the great preoccupation."[54]

For its implementation that Act provided for the creation of two new statutory boards. The Unemployment Insurance Statutory Committee set up under Part I of the Act was charged with the administration of the Unemployment Insurance Fund and the maintenance of its solvency. Part II of the Act provided for the transfer of the functions of administering transitional benefits from the Public Assistance Committees to an "independent central body", the Unemployment Assistance Board. As with the Import Duties Advisory Committee, it was essentially an attempt to take the issue, in this case, the scales of unemployment relief, out of politics. The

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52. I. Macleod, Neville Chamberlain (1961) p. 164, Gilbert, op.cit., p. 178.

53. Feiling, op.cit., p. 231.

54. Mowat, op.cit., p. 470.

Unemployment Assistance Act "attempted to insulate the Unemployment Assistance Board from political pressure in every conceivable way."[55] Its members held office at the pleasure of the Crown and could be reappointed, their salaries being drawn from the Consolidated Fund. The Minister of Labour, although responsible to Parliament, for the activities, policy and financing of the Board could exercise no control over its operations. Moreover, although spending large sums voted by the House of Commons the Board was essentially independent of Parliament for the purposes of questions and control. The claimed necessity of unifying spending power and financial responsibility advanced as justification for the supersession of the local authorities appeared somewhat anomalous in the light of the arrangements established under the Act. Its elaborately constructed independence was, however, effectively destroyed by the uproar of protest that followed the introduction of its scales of relief in January 1935. The assumption that the essentially political question of scales of relief could be rendered apolitical through the removal of ministerial control proved unfounded. Thereafter its status was little different from any other government department and it was not until the summer of 1938 that the Board achieved uniformity of administration in the determination of rates of relief.

Three general conclusions would seem justified. Firstly the history of unemployment legislation is illustrative of the ad hoc nature of much intervention in the inter-war period. The impetus for it stemmed, in the main, from immediate political pressures rather than a priori political beliefs. Secondly, the Unemployment Assistance Act 1934 bears testimony to the importance attached within the Conservative perspective to financial orthodoxy in the nineteen thirties. The importance attached to financial orthodoxy effectively precluded the elevation of the discussion of the

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55. Gilbert, op.cit., p. 181.

problem from consideration of relief of unemployment to its solution. Winch notes that "one of the proudest boasts" of Sir William Beveridge, Chairman of the Unemployed Insurance Statutory Committee, was that, "under the aegis of his Committee, contributors had repaid all previous borrowings from the Treasury. Even book-keepings transactions, it would seem, could be represented as policy triumphs."[56] Thirdly and finally, in relation to the depressed areas, the reform of unemployment legislation represented the transfer of the responsibility for the relief of unemployment from a local to a national level. The spatial inequality of employment opportunities represented by the depressed areas would similarly be conceptualised as a national, rather than local, responsibility. Government intervention would, accordingly, be expected in addition to local self-help.

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56. Winch, op.cit., p. 221.

Section B.

The Special Areas Acts, 1934-7.

5. THE PROBLEM OF THE SPECIAL AREAS

Introduction

The Special Areas, formerly known as the "derelict" or "depressed" areas to the problems of which the legislation under examination was a response, were, briefly, areas of severe localised unemployment which had first manifested themselves with the onset of the first post-war slump and had continued unalleviated thereafter. The legislative response consisted of three enactments which together comprise what was collectively known as the Special Areas Legislation. These were, the Special Areas (Development and Improvement) Act 1934; the Special Areas Reconstruction (Agreement) Act 1936 and the Special Areas (Amendment) Act 1937.

The provisions of the legislation were in part unprecedented and may be briefly outlined. The Act of 1934 provided for the appointment of two commissioners for a period of two years who were charged with the initiation, organisation, prosecution and assistance of measures designed to facilitate the economic development and social improvement of certain areas which had been specially affected by industrial depression.[1] To this end they were provided with a limited range of powers including that of compulsory land purchase and initial finance totalling £2 millions.

Eighteen months later the Act of 1936 was passed. It was a response to an alleged imperfection of the domestic capital market which had first been highlighted by the Macmillan Report on Finance and Industry five years previously and thereafter known as the Macmillan gap.[2] This gap, it was argued, was a result of the fact that whereas

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1. Section 1(1).

2. Cmd. 3897.

sums of £200,000 or more could be raised without difficulty on the stock market, great difficulty was experienced in borrowing sums of less than £200,000 for medium or long-term periods. Entrepreneurial initiative it was therefore argued was not realising its potential worth because of an unwillingness on the part of financial institutions to invest. The Act provided for Treasury assistance to a company to be established under the name of the Special Areas Reconstruction Association Limited with the object of providing as "a temporary and special expedient" a means of affording financial facilities to persons setting up or carrying on business in the Special Areas. Such persons were required to satisfy the company that, whilst having reasonable expectation of ultimate success on an economic basis they were not for the time being in a position to obtain financial facilities from banks or other financial institutions for long or medium term periods.

The subsequent Special Areas (Amendment) Act 1937 not only extended the period of operation of the Act of 1934 for a further two years, but also extended the powers contained in it. It removed a limitation in the 1934 Act whereby the Commissioners were not able to assist undertakings carried on for the purposes of gain. In addition they were empowered to lease factories to undertakings, offer them financial assistance and remit tax liabilities. Commentators have interpreted this extension of powers as being indicative of a significant change of policy at this time and cite the Act of 1937 as authority for that proposition.[3] The extent to which such an interpretation is justified is one of the questions to which our analysis will be directed.

The significance of the legislation is both contemporary as well as historical. As regards the former it represented the first legislative

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3. e.g. Pollard, op.cit., p. 132.

intervention on a still unresolved problem, which is now described as one of "peripheral" areas, "deprived" regions or the "spatial inequality of employment opportunities". It thus marked the inception of a legally defined process which remains of considerable economic, political and social significance. The description of the Act of 1934 as a major landmark in United Kingdom economic policy would accordingly seem to be justified.[4]

The significance of the legislation in relation to the development of economic law in the United Kingdom in the inter-war period is a result of two underlying and related contradictions. Firstly, it is not clear whether the legislation should be classified as primarily economic[5] or welfare in its nature. In so far as the nature of the legislation was represented as social, it was an exception to the general pattern of government activity after the crisis of the summer of 1931, which, as was seen in the previous chapter, basically sought to restrain welfare and social intervention whilst proceeding apace with intervention in industry. It is thus frequently depicted as a significant inroad on previously held tenets of unrestricted laissez-faire.[6] Secondly and relatedly, the credit for its inception is commonly attributed to the one man who more than any other was responsible for the formulation of the policies of the National Governments after 1931, Neville Chamberlain.[7] As such it forms an important aspect of a reputation which, in contrast to the policies pursued after 1931 for which he was responsible, had been formed as a social reformer and administrator and which, had it not been for the later events which overshadowed his earlier achievements, would have been undoubtedly by now secure. In attributing

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4. D. Butler and A. Sloman, British Political Facts 1900-75 (1975) p. 303.
5. supra.
6. See for example, Aldcroft, The Inter-War Economy (1970), p. 20 Addison, op.cit., p. 31.
7. supra.

responsibility for the legislation to Chamberlain, Keith Feiling, his biographer, adduces one further reason for its examination,"to him also was due a first initiative on behalf of the depressed areas, which under a fire of criticism he, not too quickly, came to see called for special remedies. This gradual process, if examined in detail, would offer a searching study in parliamentary government."[8]

There are two separate stages to the explanation of the genesis and functions of the legislation. The first, which is the focus of this chapter, is the explanation of the problem of the special areas to which the legislation was a response. The seond is the explanation of the emergence and significance of the legislative intervention.

(i) The Basic Industries in the Inter-War Period

Discussion of the problem of the special areas was for much of the inter-war period synonomous with discussion of the problems of the basic or staple industries, that is coalmining, iron and steel, ship-building, heavy engineering and textiles. It is therefore appropriate to begin an examination of the problem of the special areas with an examination of the changes that were taking place in those industries at this time. That examination must, however, take place against the background of the changes taking place within the British economy in the inter-war period which were the subject of analysis in Chapter 2. In that analysis it was seen that the major feature of the period was the necessity of the achievement of a shift in resources from the basic exporting industries to the new primarily consumer industries; a shift which essentially, was necessitated by the growing structural imbalance of the economy.

In examining the changes that took place in the basic industries, against that background, we may posit a series of observable consequences of a slump in demand in an economy exhibiting a high degree of monopoly, such as occurred in each of the basic industries after the war and across the whole economy in 1929. Of the two possible reactions

8. Feiling, op.cit., p. 231.

to a slump in demand, the reduction of costs in an effort to regain markets or the deliberate reduction of output in an attempt to stabilise production at the existing level of demand, we would expect that the favourite reaction would be the latter, that is the reduction of output. The consequence of a reduction in output would be the emergence of excess capacity in those industries affected by the slump in demand. Loss of markets and the emergence of excess capacity would lead to the third observable consequence which would be demands on the part of industry for guaranteed and protected markets and schemes for the reduction of excess capacity. Fourthly the concomitant under utilisation of capacity would increase unemployment in the affected industries, the corollary being that in so far as these industries were spatially concentrated the resultant unemployment would similarly be localised. An examination of the basic industries in the inter-war period generally confirms these predictions and enables the explanation, as an incidental feature of our main focus, of the pattern of statutory development in relation to each of them.

(a) Coal

Before 1914 the coal industry had been continuously expanding and indeed as a result of a variety of factors its prosperity continued largely unchecked until 1925. That year saw a sharp fall in demand which was not immediately realised to be permanent. It revealed the emergence of a problem of chronic surplus capacity which was to dominate the industry for the remainder of the inter-war period. Between 1913 and 1938 the level of home demand decreased slightly; from 190.7 million tons to 175.7 million tons,[9] increased energy demands being met from other sources. Exports, however, over the same period nearly halved

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9. Source: The British Economy. Key Statistics 1900-64. Table B,p.7.

from approximately 96.7 million tons in 1913 to 31.5 million tons in 1938. Total production therefore declined from 287.4 million tons in 1913 to 227 million tons in 1938.[10] Thus while the capacity of the industry remained the same, the home market for its product seemed to have reached its limit and its exports declined. Employment reflected this trend. In 1913 the industry employed 1,100,000 men. By 1938 it only employed 702,000, a decrease of more than a third.

The response, which was characteristic of the period, was to seek the replacement of competition by coordination.[11] Its object was to secure the reorganisation of the industry in an attempt to reduce capacity and maintain prices and, after the imposition of protection in 1931, to concentrate production in the most efficient pits. This object was endorsed by the Samuel Commission set up to report on the industry in 1925.[12] State intervention in the achievement of these goals was concentrated and continuous; subsidies totalling £23 millions being granted to the industry during the nineteen twenties. The result of the Samuel Commission was the Mining Industry Act 1926 which authorised the Railway and Canal Commission to coerce unwilling minorities in the industry into schemes of amalgamation. The highly fragmented nature of the industry, however, made this a process fraught with difficulty. The results of the Act in the fact of opposition from the industry were negligible.

The subsequent Coal Mines Act 1930, was one of the most important

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10. ibid., p. 6.

11. The shift in attitudes to monopoly and the control of competition which this transformation entailed was examined in Chapter 3, supra.

12. Report of the Royal Commission on the Coal Industry 1926. Cmd. 2600.

Acts of this period.[13] It embodied two distinctive approaches to the problem of excess capacity. Part I of the Act established a compulsory cartel scheme to raise prices and restrict output through the operation of a system of quotas. Part II established a Coal Mines Reorganisation Commission charged with the reorganisation of the industry through schemes of amalgamation and concentration. The Act thus embodied the two most common responses to the problem of surplus capacity; cartels and amalgamations. It would however be erroneous to depict the two responses as being entirely compatible.[14] The assumption of compatability in this context conceals the extent to which the approaches embodied in the Act were contradictory. The creation of a cartel would impede reorganisation through the preservation of the existing uneconomic industrial structure. Part I of the Act is thus open to the severe criticism, "that it helped to perpetuate the existence of those collieries

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13. The most detailed account of the provisions of the Act is that of A.M. Neumann, Economic Organisation of the British Coal Industry (1934) pp. 407-24. See also Kirby, Rationalisation and the Control of Competition in British Industry in the Thirties: the case of Coal Mining, 2nd ser. XXVI (1973) Economic History Review, pp. 273-84. Kirkby, Government Intervention in Industrial Organisation: Coal Mining in the Nineteen Thirties, XV(1973) Business History, pp. 160-72.

14. Some commentators have attempted to impose an overall logic on the provisions of the Act by describing Part I as temporary and Part II as intended to effect a permanent cure. See, for example, Pollard, op.cit., p. 113.

which, in the normal course of events would have closed down either temporarily or permanently."[15] Part II of the Act which was, by contrast, the most obvious method of intervention, was in the face of opposition from the industry, "a total failure".[16]

The subsequent Coal Act 1938 clearly reflected the problems facing any attempt at achieving coordination in the industry and the extent to which economic circumstances may necessitate government intervention. The Act provided for the transfer of the functions of the Coal Mines Reorganisation Commission to the Coal Commission and for the nationalisation of coal royalties. The propensity of the Conservative-dominated National Government to intervene in the nationalisation of coal royalties was, however, largely a product of economic necessity in that a failure to secure their nationalisation would have effectively precluded the possibility of the unified development of coalfields as a precondition of amalgamation and modernisation and endangered the future supply of the natural resource upon which the industry was based.[17] The problems facing the industry through the failure to secure the rationalisation of the system of leaseholds were clearly illustrated in the report of Captain D. Euan Wallace on the Durham and Tyneside Areas. Speaking of the necessity of schemes to drain the Durham coalfield which was becoming progressively flooded he pointed out that, "the multiplicity of ownership of royalties and the lack of real community of interests between the owners of royalties and

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15. Kirby, Rationalisation and the Control of Competition in British Industry in the Thirties, op.cit., p. 277.

16. ibid., p. 280.

17. The position in coal prior to the Act of 1938 was in contrast to that in petroleum where all rights in the extraction of petroleum had been vested in the State by the Petroleum (Production) Act 1934.

the lessees of mining rights has so far put any question of a joint economical scheme of pumping for the whole area outside the realm of practical politics".[18]

The fragmented nature of the industry accordingly necessitated considerable government intervention. The impact of that intervention is, moreover, clear. Intervention in so far as it was intended to reduce capacity and to increase efficiency through the enforcement of concentration failed, and was used instead to protect the position of undertakings which had become uneconomic.

(b) Iron and Steel

After the war, the iron and steel industry was beset by a number of difficulties. The emergence of surplus capacity on the cessation of the war, the loss of markets and the growing technological backwardness of the industry resulted in a situation in which the industry was characterised by a high amount of surplus capacity and a high level of unemployment. In the first post-war decade that situation worsened appreciably. The export market was reduced by the operation of tariffs and foreign cartels whilst the domestic market declined through the importation of cheap foreign steel. The depression exacerbated these problems. During it the production of steel declined from 9.6 million tons in 1929 to 5.2 million tons in 1932. In June 1932 some 47.7 per cent of insured workers in the industry were unemployed.

In the responses of the industry to this decline in its position two particular approaches can be distinguished; those relying solely on the initiative of the industry and those undertaken with the assistance of government. Both embodied the two solutions, the restriction of competiton and the enforcement of monopoly, already identified. During the period prior to the imposition of protection,

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18. Cmd. 4728. Report of the Investigation into Durham and Tyneside. Appendix 1.

the responses to the problems of the industry came largely from within the industry. Their results were not encouraging. Despite the achievement of several amalgamations amongst its most important firms, the industry's first attempt in 1929 at setting up a cartel to meet foreign competition, the British Steel Exports Association, failed in the face of the activities of the foreign cartels.

However, the imposition of protection in 1932 marked the beginning of steady progress in the industry which was to last for the remainder of the decade. The Import Duties Advisory Committee recommended the introduction of ad valorem duties of one-third on most grades of imported steel to protect the industry from foreign competition. The Committee was not, however, concerned solely with the elimination of foreign competition but also with the abrogation of domestic competition. In order to secure the latter the Committee recommended that the tariff only be temporary and conditional upon the achievement of "a considerable measure of reorganisation" of the industry, arguing that protection alone would not "enable it to play its proper part in the national economy".[19]

It proved, in practice, difficult to attain any measure of agreement for the reorganisation of the industry. Eventually a scheme was agreed at the cost of "giving the industry a quasi-monopolistic position in the home market".[20] The scheme was the embodiment of the principle of self-government in industry. Under it the National Federation of Iron and Steel Manufacturers became the British Iron and Steel Federation which was empowered to fix prices, negotiate quotas and pursue schemes of central purchasing on behalf of the industry. Funded by a consortium

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19. Reports of the Imports Duties Advisory Committee. Cmd. 4066 and 4181 (1932) quoted in Mowat, op.cit., pp. 441-2.

20. Report of the Import Duties Advisory Committee on the Present Position and Future Development of the Iron and Steel Industry, Cmd. 5507. 1937 p. 23.

headed by the Bank of England, the Federation in its negotiations with the European Steel Cartel, on behalf of domestic manufacturers, was assisted by the government who temporarily raised the tariff to fifty per cent to improve its bargaining position.

Although the Import Duties Advisory Committee had laid great emphasis on the need for reorganisation and had recommended that the tariff become permanent on the understanding that such reorganisation would take place under the aegis of the British Iron and Steel Federation there is "little evidence that the Federation took this task very seriously".[21] Such rationalisation and integration as took place was either of a voluntary nature or else forced upon the industry by the banks. Despite the achievement of some modernisation the industry was generally regarded as being technologically backward at the end of the decade. The consequences of intervention by the government were not the reduction of costs through the reorganisation of the industry which it had been argued would flow from the imposition of protection and the establishment of the Federation but rather the maintenance of profits and the achievement of higher prices through the exercise of cartel controls by the Federation.

(c) Shipbuilding

Although shipbuilding shared none of the disadvantages of technological backwardness exhibited by the other basic industries in that the nature of the process involved the production of large single units of largely unstandardised materials with a vast input of the most varied and highest manual skills,[22] the industry was badly hit, nonetheless, by the decline in demand for capital goods as a result of the depression. The war and post-war boom had doubled the world's shipbuilding capacity whilst potential demand remained static. In 1913

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21. R.A. Brady, Crisis in Britain (1950) p. 198.

22. Hobsbawm, op.cit., p. 179.

the gross tonnage commenced had been 1,932,000 tons whilst in 1920 at the height of the post-war boom it was 2,397,000 tons. Thereafter it declined until in 1932 a mere 72,000 tons were started. In the good year of 1937 the tonnage commenced had crept back to 1,057,000 tons but in 1938 it slumped again to 505,000 tons.[23] There was thus an acute problem of excess capacity over demand. As a consequence a large part of the industry was idle and its unemployment rate of over sixty per cent was among the highest.

The response was once again one of cartels and monopolies. In addition to the mergers that took place, the industry, with the assistance of the banks proved capable of reorganising itself, thus obviating the need for government intervention. In 1930 it formed its own cartel, National Shipbuilders' Securities Limited, with the support of the major part of the industry; 47 companies with nearly ninety per cent of the industries' capacity subscribing to its shares. Its formation was also supported by the Bankers' Industrial Development Corporation which had been established by the Bank of England and the clearing banks to reorganise and reduce the capacity of the various basic industries. The intervention of the banks was forced rather than voluntary, the industries having borrowed on the basis of existing assets rather than future earning power. The position in Durham and Tyneside was summed up in the report of Captain D. Euan Wallace. "The prosperity of this area was established at the time of the industrial revolution and continued over more than a generation, so that it became an article of faith with most of those concerned that nothing could arrest its progress. As a result when troubles were met with, the remedy generally

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23. Sources, The British Economy: Key Statistics, op.cit. The 1913 figure refers to ships launched.

relied upon was what American journalists graphically describe as "a shot in the arm". Money was raised upon the basis of assets rather than earning power. by means of debenture issues which have since hung like millstones roundthe necks of the various concerns and gradually pressed them into the hands of the banks. It is hardly an exaggeration to state that today the banks control the position and that without their consent very few shipbuilding firms could undertake an order".[24]

By 1937 National Shipbuilders' Securities had brought up and destroyed 28 firms with a capacity of over 1 million tons out of a total capacity of 3.5 million tons; others being forced into liquidation. The experience of Palmer's Shipyards in Jarrow was typical.[25] It launched its last ship in 1932, went into receivership in 1933 and was sold to N.S.S. Ltd. in 1934. The yards were then scrapped and sold with a forty year restrictive covenant on their future use for shipbuilding. The reorganisation that took place was mainly of this restrictive nature, little attempt being made to increase efficiency or secure modernisation.

The activities of the industry in conjunction with the banks thus obviated the need for government intervention in the coercion of unwilling minorities. There were, however, two Acts of importance. The North Atlantic Shipping Act 1934 made available £9.5 millions in government loans for the construction of ships for the North Atlantic Service. The loans had two objectives. Firstly, to assist the merger of the Cunard and White Star Lines and to prevent the latter falling into foreign ownership and secondly to re-start the building of the Queen Mary.[26] The British Shipping (Assistance) Act 1935 granted a

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24. Cmd. 4728, para. 22.

25. The most graphic contemporary account is that of Ellen Wilkinson, The Town that was Murdered. (1939).

26. Feiling, op.cit., p. 235.

subsidy to tramp shipping. Part II of the Act provided for a 'scrap and build' scheme under which the Treasury offered loans on favourable terms for the scrapping of two tons of existing tonnage for every ton newly built. The impact of the scheme was, however, slight not least because of the operation of Part I of the Act which granted subsidies on sailings and thus encouraged the retention of existing tonnage.

(d) Cotton

The preponderant share of cotton in the textile industry and its status as the most depressed of all the textile trades in the inter-war period justify its separate examination. The industry was essentially based upon, and had grown up on, the export trade. In 1907 total production measured 7,090 million linear yards of which 83.6 per cent were exported. By 1930 production had declined to 3,179 million linear yards of which 73.1 per cent were exported.[27] The decline that took place within the industry in the nineteen-twenties was entirely due to the loss of export markets. Throughout the period the home market remained buoyant and sales were rising, but at an insufficient rate to compensate for the loss of export markets. The loss of those export markets was not a result of a slump in world demand but rather due to the emergence of foreign competition particularly from Japan and the United States. The necessary reorganisation of the industry in the use of better machinery and higher wages to meet the foreign competition proved impossible to achieve at a time when markets, prices and profits were falling and productivity was increasing at a slower rate than that of Britain's competitors.

Any pretence at reorganisation as a means of increasing efficiency to counteract foreign competition was abandoned after 1930. The main effort of the industry was directed to the reduction of excess capacity through the scrapping of weaker plants and to the concentration of

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27. Source: The British Economy: Key Statistics. Table B.

production in the remainder. The Clynes Report pointed out that both increased efficiency and the reduction of capacity entailed some reorganisation of the industry.[28] As it stood the structure of the industry precluded the achievement of either objective. Although some amalgamations did take place, rationalisation proved difficult to achieve. "In these industries, made up largely of a mass of small firms, each carrying out only one of an immense variety of processes, amalgamation and cartelization was only partial. Cut-throat competition and attrition over a period of years, rather than the planned and permanent shut-down of a whole district, was here the pattern of decline for most of the decade."[29]

The failure of several attempts by sections of the industry to form their own cartels indicated the need for outside intervention. In 1929 the Lancashire Cotton Corporation was set up for the American section of the industry with the assistance of the Bankers' Industrial Development Corporation. By 1939 it had scrapped 4.75 million out of a total of 9 million spindles and had extensively modernized the remainder. A similar body, Combined Egyptian Mills Limited, set up for the Egyptian section of the industry, bought up and destroyed 3 million spindles over the same period. This private initiative was further reinforced by the State. The Cotton Industry (Reorganisation) Act of 1936 established a Spindles Board, charged with the acquisition of property in the elimination of redundant spinning capacity and with powers to raise a compulsory levy on the industry to finance its activities. The Board used its powers to acquire and scrap six million out of a total of 13.5 million spindles still thought to be redundant. The framework of intervention was further extended by the establishment

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28. Report of the Committee on the Cotton Industry 1930 Cmd. 3615.

29. Branson and Heinemann, op.cit., p. 56.

under the Cotton Industry (Reorganisation) Act 1939 of a Cotton Industry Board which was empowered to secure the compulsory fixing of minimum prices for the products of the industry. "The State, having ensured the reduction of capacity, thus created a compulsory cartel to raise prices".[30]

A uniform picture thus emerges of the basic industries in the inter-war period. No longer the growth centres of world demand, dependent upon the retention of vital overseas markets which were steadily contracting and handicapped by their growing technological obsolesence and the return to the Gold Standard in 1925 which over-valued the pound, their history in the inter-war period was one of continuous decline, a decline that was only disciplined by the extent to which the behaviour of the market participants could be controlled by cartels or through the enforcement of monopoly. Their dominant feature was their adjustment to the reduction in demand.

(ii) The Problem of the Depressed Areas

In determining the causation of the problem of the depressed areas we have already posited that one consequence of a slump in demand would be the emergence of localised unemployment in spatially concentrated industries. We can thus hypothesise that the determining factor in the emergence of the problem of the depressed areas was the interaction between the declining basic industries and the expanding industries as expressed through their geographical location. If we examine the geographical location of the basic industries it emerges that they were in the main concentrated in small clearly defined areas; in the North-East and North-West of England, South Wales and South-West and Central Scotland. The expanding industries, by contrast, were mainly

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30. Pollard, op.cit. p. 123.

located south of a line drawn from the Humber to the Severn. The consequent severe localised unemployment attendant upon this process gave rise to the objective condition of the depressed areas.

This hypothesis is confirmed by examination of Ministry of Labour and Board of Trade statistics. That analysis reveals the essentially structural nature of the regional unemployment and enables the rejection of alternative explanations that the unemployment was either cyclical in nature or else caused by a "drift to the South" on the part of industry.[31] On the basis of the regional classification adopted by the Ministry of Labour and Board of Trade it is possible to categorise the two areas as North and South, the former being areas of the declining basic industries, the latter, areas of the expanding industries. The Census of Production of 1924, 1930 and 1935 reveal the growing importance of the South as against the North,[32] which is confirmed by examination of the distribution of employment and population.[33] The conclusion reached is that the important feature of the depressed areas was what may be termed their "initial position" in respect of the relevant importance of the two groups of industries.[34] Thus an area with a higher initial proportion of expanding industries will do better in terms of production and employment than one with a low initial proportion and in the sense that success breeds success is likely to

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31 The following analysis is based on S.R. Dennison, The Location of Industry and the Depressed Areas. (1939).

32 Dennison, op.cit., p. 139.

33 ibid., pp. 140-1.

34 ibid., p. 148.

attract a proportionately higher amount of new industries. This change in location from North to South need not, however always be rational but may take place on the basis of a variety of subjective factors such as the perception of a cleavage between "prosperous" and depressed areas".[35] The factor of their "initial position" explains the geographical redistribution of industrial activity that took place in the United Kingdom in the inter-war period. "The dominant factor is that the areas of the South are areas of new expanding industries, while the areas of the North are centres of the old staple trades of decreasing employment."[36]

This analysis is important in that not only does it explain the causation of the problem of the depressed areas but it also indicates the remedies that would have to be applied were its solution to be desired. Whereas the former has formed the subject matter of this chapter, the examination of the latter in the formulation of an explanation of the legislative responses to the problem forms the subject matter of the next chapter.

(iii) Other Factors Affecting the Areas

It remains, however, for the purposes of clarity of exposition and for an understanding of the legislative debates centring on the areas, to examine certain other factors, which it was argued, contributed to the emergence of the depressed areas. The common feature of all of these factors is that they acted to repel industry from the depressed areas and to attract it towards more prosperous regions.

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35 Pollard, op.cit., pp. 130-1.

36 Dennison, op.cit., p. 149.

The first series of factors related to local government. Foremost amongst these was the structure of local government itself, which, it was argued inhibited the taking of effective local action in response to changing circumstances. The structure of local government at the beginning of the nineteen-thirties was essentially the result of a century of haphazard growth. Functions were exercised by a bewildering variety of authorities, County Councils, Municipal Boroughs, Urban Districts and Rural Districts, each jealously aware of its own status or aspiring to a higher status.

It was inevitable that such a system should give rise to dissatisfaction with its operation. In particular, limitations in the size of local authority areas, diversities of population, financial resources and functions gave rise to problems in the initiation of joint action and coordination and equal operation of central intervention and control. These problems assumed a heightened importance in the areas in which shifts in population and industry had taken place since the war. The problems to which such conditions gave rise were once again highlighted in the report on the North East of Captain D. Elan Wallace. Whilst, he pointed out, the old boundaries between towns had for all practical purposes disappeared, "there still exists two county councils, thirteen local authorities, two municipal boroughs and two urban districts. In none of them can the conditions for balanced local government, that is industries, shops, and residential quarters, be said to exist. One could live in one, work in another, shop in a third, and have one's children educated in a fourth."[37] Such conditions were obviously inimical to any form of

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37 . Cmd. 4728. op.cit.

cooperation in the provisions of services or planning and led to the appointment of a Royal Commission on Local Government on Tyneside in May 1935.[38]

The second aspect of the problem of local government was that of the rating system and its effect both on industry and on local government. There were two aspects of the problem in its application to industry. Firstly, the proportion of total costs, local taxes represented and secondly the perception of the importance of the burden of local taxes. The disparity between, for example, a rate of 29 shillings in the pound in Merthyr Tydfil and 8 shillings and 4 pence in the pound in Oxford, contributed to a belief in the necessity of reducing the rate burden on industry. This perception of the importance of the rate burden in determining the location of an industry can be shown to be unfounded in that it cannot be shown that either rates constituted a significant proportion of costs or that they were lower in prosperous areas than in depressed areas. As regards the latter rates were not simply determined by the level of prosperity of an area. In relation to the former the addition to costs which resulted from local taxation in a very highly rated area was so small as to be almost insignificant. Nevertheless the subsequent establishment of the essential irrationality, or lack of an objective basis, of a belief, cannot detract from its significance or meaning for those who are its holders. That the government shared in part that belief, was

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38 Report of the Royal Commission on Local Government in the Tyneside Area. 1937 Cmd. 5402.

illustrated by the inclusion of a large measure of derating in the Local Government Act 1929. Agricultural land and property were completely derated whilst industry and the railways were freed of all but a quarter of the burden. Local authorities were compensated by the Treasury for the resultant lost revenues by the addition of a block grant to the already existing system of percentage grants. This response was welcomed by industry.[39]

The remaining rate burden on industry was affected by the sometimes illegal actions of local authorities, which, in efforts to attract industry to their areas made "sympathetic" assessments or forgot to collect rates. This in effect operated as a subsidy to industry by local ratepayers which could be better afforded by more prosperous areas which were in less need.[40]

The effect of the rating system was, however, more serious on local government within the depressed areas in that the declining value of property, increased cost of public assistance and shrinking populations combined to place a financial strain on those authorities least capable of bearing it.

The second factor that was argued to have had an adverse effect on the depressed areas was the comparative lack of sources of capital. The facilities in the depressed areas were regarded as being inferior to those available in more prosperous areas. It was argued, in particular, that this comparative disadvantage was a result of banking amalgamations which had led to a centralisation of the banking system.

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39 Cmd. 3282. pp. 253 et seq.

40 Information taken from minutes of a meeting held at P.E.P. 10 Feb. 1938.

In so far, however, as the argument over the comparative lack of financial facilities focussed on the consequences of bank mergers, it distorted the main issue of the adequacy of the domestic capital market as a whole.

Prior to 1911 there was a considerable disparity between the operation of the foreign and domestic capital markets. "While the market for foreign investments was extremely well organised, the market for home investment was complex, many-sided and badly co-ordinated."[41] Thus while the banks mainly limited themselves to short-term loans, except in cases of reorganisation, long-term loans were generally regarded as being within the province of other financial institutions.

The Palfour Committee in its consideration of the organisation and operation of the domestic capital market rejected both the argument that the depressed areas were at a disadvantage in the provision of financial facilities and that such a situation was a consequence of bank mergers. They concluded that there was "no lack of loan capital available, for the use of British industry, at moderate rates of interest, provided that reasonable security is forthcoming."[42] and that, moreover, they could not agree with, "the opinion expressed by some witnesses that bank amalgamation has led to the standardisation of the rules governing bank advances and has been unfavourable to local elasticity."[43]

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41 Pollard, op.cit., p. 18.

42 Cmd. 3282 p. 47.

43 ibid.

The denial by the Balfour Committee of both the existence of a problem and its explanation was not echoed by the Macmillan Committee. In its report the Committee admitted the existence of a problem and provided an explanation of its origins. In examining the adequacy of financial organisations for the supply of industry the Committee identified what later became known as "the Macmillan gap." Its reasoning was that whilst capital requirements of more than £200,000 could be met by share or debenture subscriptions or by loans from institutional investors, there was, below this figure, a gap which was not being filled. The inadequacy of the domestic capital market had meant that for sums below this amount reliance had been placed on either private financing or profits to finance development. Thus although there was a problem its explanation did not lie in the process of bank amalgamations, which institutions were, in any event, not normally in the business of providing industrial investment, but rather in the organisation of the domestic capital market.

Government had earlier assisted industry generally in the process of capital reconstruction after the war, though the Trades Facilities Acts 1921 to 1927. In so far, however, as assistance had taken the form of guarantees and not of grants, its consequent impact had been slight. This precedent was, however, followed by the provision of extra-ordinary financial facilities in the depressed areas through the Special Areas Reconstruction Association established under the Special Areas Reconstruction (Agreements) Act 1936.

Other commentators had their own favourate explanations of the decline of the areas. In general they focussed upon the image presented by the areas and in particular upon the factors which were said to contribute to their unattractiveness from the point of view of industry. Thus, for example, Charles Muir emphasised how justice "as at present administered on Tyneside is neither equitable nor impartial and that its administration is neither efficient or speedy. This leads

to intense dissatisfaction not only amongst the employed class but also among employers."[44] Although the judgments cited by Muir, including one in which it was stated that, "the limited company is a means by which businessmen may carry on fraudulent business under an alias and it should be abolished," could not be expected to enhance the view of businessmen of the relevance and utility of the law to their activities, it is clear that they were in no way a cause of the objective condition of the depressed areas. That condition, as has been seen, was essentially a product of the interaction between the declining basic industries and the new expanding ones as expressed through their geographical location. Marginal factors such as the administration of justice were not in themselves the cause of the emergence of that problem but could only contribute to an intensification of its effects in so far as they further reinforced the image of the areas as depressed.

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44 C. Muir Justice in a Depressed Area (1937) p. 148.

6. THE PROBLEM AND ITS SOLUTION; AN EXPLANATION OF THE LEGISLATIVE INTERVENTION

Introduction

In the preceding chapter we explained the emergence of the objective condition of the depressed areas as a product of the interaction between the declining basic industries and the new expanding industries as expressed through their geographical location. An examination of the solutions proposed to that condition should therefore enable us to arrive at an understanding of the differing ways in which the problem was conceptualised and of the significance of the legislative intervention. Before, however, undertaking that examination it is instructive to examine existing explanations of the legislation.

Implicit in most of these existing analyses is a theory of intervention as a rational response to a problem which seeks its solution. The government we are frequently told intervened in the public interest. The meaning and significance of the legislation is invariably derived from either the words of the statute or the public statements of the legislators, these forming the basis for the assumed purposes of the legislation. The effectiveness of the legislation is accordingly measured in terms of the extent to which it was successful in solving the problem.[1] The most extreme portrayal of such an explanation is that of a former civil servant, Dame Alix Meynell.[2] "Governments concern", (between 1934 and 1939) she tells us, "was solely

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1 See for example, Pollard, op.cit., p. 132.

2 Permanent Under Secretary at the Board of Trade from 1946 to 1955.

with the provisions of new sources of employment in the Depressed or Special Areas ... It was to meet these conditions of catastrophe that the government passed their Special Areas Act in 1934, appointed a Special Commissioner with extremely wide powers and gave the Commissioners pretty well as much money as they asked for and an astonishingly free hand in the spending of it ... These steps the Commissioner took were wholly new and imaginative and were typical of their willingness to try anything, however revolutionary to solve their terrible problem."[3]

Loasby, whilst describing the purpose of the legislation as the reduction of local unemployment, argues that the legislation was of little significance in itself. "It is important to note that each shift of policy has required only an administrative decision to bring it into effect; legislation has followed later, if it has been needed at all, and the dates of legislation are therefore poor guides to the timing of policy changes."[4]

Clearly, however, the significance of the legislation cannot be deduced from either the words of the statute or the justifications proffered by legislators for the adoption of certain courses of action. Thus although we may expect to find reflections of them in the functioning of the institutions established, they do not explain either the genesis or the social function of the legislation. Such rationales are essentially atheoretical and in this context ahistorical. It is therefore necessary to establish an explanation of the genesis and function of the legislation, an explanation which, moreover, reveals the inadequacy of Loasby's contention that the legislation is in itself of little significance.

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3 Meynell, "Location of Industry" 37 (1959) Public Administration pp. 9-14.

4 Loasby, Location of Industry: Thirty Years of "Planning". 156 (1965)District Bank Review, p. 28.

(i) The Problem and its Remedies

Our analysis of the emergence of the problem is important in that not only does it explain the causation of the problem but it also indicates the remedies that would have to be applied were its solution to be desired. There were basically two alternatives possible, within which a number of sub-divisions can be detected, the first focussing on the population involved, the second on the industry involved.

(a) Solutions based on the population involved

The classical laissez-faire response to what was conceptualised not as a problem of "depressed areas", but rather as a problem of surplus populations was the migration of the labour involved. Prior to the inter-war period that migration had mainly taken the form of emigration.[5] Emigration had been the classical response to the problems of the Highlands of Scotland, the Lancashire Cotton Famine, the decline of the Cornish tin-mining industry and the contraction of agriculture in the nineteenth century. That solution was, however, increasingly unavailable after the First World War despite attempts to encourage its revival through the establishment of the Overseas Settlement Committee in 1919 and the passing of the Empire Settlement Act in 1922.[6] In the first post-war decade emigration was at an annual average rate of 130,000, a mere 40 per cent of its immediate pre-war level. Any solution to the

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5 Carr-Saunders, "Migration Movements to and from the British Isles," (1937) 29 Sociological Review, pp. 232-42 .

6 John Galsworthy's The Silver Spoon contains the best contemporary account in popular literature of the advocacy of this response to the problem in the doctrine of Fogartism which propounded, tariff reform, imperial preference and increased emigration within the Empire, as a panacea for the nation's ill.

problem of the depressed areas could not therefore be in terms of the emigration of the surplus population but would instead have to be primarily internal.

In the inter-war period migration took two forms; classical unassisted migration and migration assisted by the Ministry of Labour through the Industrial Transference Schemes. Spontaneous migration was induced by the classical forces of supply and demand. "Under the spur of necessity and fear people moved."[7] It is difficult to estimate the amount of migration that took place, but, for example, between 1931 and 1938 the population of South Wales fell by 115,000 or 6 per cent whilst for the period 1921 to 1938 the population declined by 8.1 per cent. Meanwhile it was estimated that over a million people between the ages of 18 and 45 emigrated into the South-East alone between 1923 and 1936.[8]

Voluntary migration as a response to unemployment was, however, by no means immediate or guaranteed. As J.C.C.C. Davidson, Chancellor of the Duchy of Lancaster, one of the four investigators into the depressed areas appointed in 1934 reported to the Minister of Labour, "transference presents immense difficulties. Love of their hills, valleys and sea; the feeling which is widespread, especially amongst the women, that anywhere over the hills is strange country; these are the barriers to voluntary transference, I do not suggest, of course, that transference should not be pressed to the limit especially for young people."[9] Sir Wyndham Portal found similar evidence in his investigation into South Wales and Monmouthshire. "At many meetings which I attended I found a measure

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7 Davison, op.cit., pp. 94-109.

8 Brindley-Thomas, "The Influx of Labour into London and the South-East 1920-36." 4 (1937) Economica pp. 323-36.

9 Cmd. 4728, Report on West Cumberland and Haltwhistle, p. 6.

of resentment that the young and able-bodied should be in the necessity of leaving the district to find employment ... the view was held that the Government should, as an alternative to transference, take any essential steps to obtain control and direction in the allocation of new industries, having regard to the claims of the depressed areas. I am not in agreement with these representations."[10]

Reliance on spontaneous migration was thus supplemented by measures to encourage, and remove obstacles to, migration, the object in relation to the depressed areas being not the reduction of unemployment but rather its physical and political dispersal. Voluntary assisted transference accordingly became the first policy adopted to remove the problem of the depressed areas. "The necessity of modifying the industrial structure of the work force was accordingly recognised and this recognition was directly responsible for the inauguration of the Industrial Transference Scheme."[11] An Industrial Transference Board, including in its membership, Sir Warren Fisher, was appointed in 1928, "to be a board for the purpose of facilitating the transfer of workers, and in particular of miners, for whom opportunities of employment in their own district or occupation are no longer available."

The Report of the Board illustrates that the problem was conceptualised as one of "surplus population," and that the policy adopted was a consequence of that conceptualisation. "Until recently", the Board stated, "national policy has assumed that industries and areas would return, broadly speaking, to the position they held before the war; and unemployment policy has been largely one of "take-over," the aim being to maintain the

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10 ibid., Report on South Wales and Monmouthshire, paras. 137-49.

11 Hancock, "The Reduction of Unemployment as a Problem of Public Policy 1920-9" 15 (1962-3) Economic History Review p. 330.

labour force required for the industries in the areas in which they were normally required in a state as free as possible from demoralisation. This was the basis of the policy of relief schemes carried out in depressed areas of employing labour temporarily from the depressed areas."[12]

This initial view of the problem as being of a primarily temporary nature had however changed. "From what we have been told by those connected with the industries affected, however, we are definitely led to the belief that it would be unwise to count upon the recovery by certain areas dependent upon the basic industries, and particularly coalmining, of the position they occupied before the war."[13] The Board therefore recommended that, "from now onwards the firm aim of policy should be the dispersal of the heavy concentrations of unemployment by the active encouragement of movement from the depressed areas to other areas, both in this country and overseas. This, it seems to us, will provide the only natural and permanent solution of the present unemployment problem in the areas now dependent upon the heavy industries."[14]

The Board also recognized that the reorganisation of the basic industries was likely to lead to a further contraction of employment opportunities. Their recommendations were, therefore, also based on the fear of the political consequences of a worsening in the position of the areas. "A critical attitude towards the order of society is, among the young, a natural and, in many respects, a healthy sign; but when older and more serious men are brooding over a situation so much against their wishes and efforts that it looks like an injustice imposed from without, a society that makes no effort to help them may one day be called upon to pay a heavy reckoning."[15]

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12 Report of the Industrial Transference Board 1928. Cmd. 3156, pp. 15-16.

13 Ibid., p. 16.

14 ibid., emphasis added.

15 ibid., p. 32.

With regard to the implementation of the policy the Board argued that its success rested essentially upon the willingness of an individual to move. Willingness in turn rested upon the recognition of the necessity of moving. In emphasising the spur of necessity the Board were invoking one of the key principles of nineteenth century individualism. The implicit conflict of political perspectives which was to dominate so much of the subsequent debate is well expressed by Feiling. "To be born a man, the Labour logic terminated, involved a "right" to employment, a right of the unemployed to maintenance equal to the standard of those in work, a right to amenities for which his individual earnings could never pay. Such sentiment obliterated all the principles which nineteenth-century thinking had cherished such as the duty of each locality to carry its own burden, the family as an economic unit, or the stimulus of need as a motive to work."[16]

This view that a solution to the problem of surplus population could only come about through individual recognition of the necessity of migration found unanimous acceptance in the reports of official committees prior to the first legislative intervention. Reporting in 1934 Sir Malcolm Rose stated that the first essential of any solution to the problem of the depressed areas was, "the realisation by the unemployed persons themselves of the stark realities of the situation and [the] resolution to try a fresh start elsewhere."[17] Anything which might inhibit the formation of this resolution should therefore be avoided. "Nothing should be done which might tend to anchor men to their district by holding out an illusory prospect of employment. We therefore reject as unsound policy, relief works in the depressed areas."[18] The Balfour Committee considered

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16 Feiling, op.cit., p. 104.

17 Cmd. 4728, Report on Scotland, Part III(ii).

18 Cmd. 3156, p. 18.

the effect of social legislation as a factor in mobility and concluded that, "all schemes which succeed in mitigating the hardship of unemployment must have some tendency to diminish the incentive to seek work in other places or of other kinds, and that this risk ought to be continuously in the minds of those who frame and administer the provisions of any scheme of this kind."[19]

In fostering the will to move emphasis was placed on bringing home to the unemployed the hopelessness of their situation. "Clearly a more intensive campaign of publicity is urgently required in order that the fact that work for all will not be forthcoming in West Cumberland may be brought home to the unemployment men in the area."[20] This policy of deliberately labelling the areas as "depressed" and derelict was however to introduce a contradiction in policy in that the Government was later to attempt to describe their condition as being less serious than it was in an attempt to resist demands for an increase in intervention. Representatives of other areas were, in addition, to resist the extension of the legislation to them in the belief that the attachment of the label "special" to them would be inimical to their prospects of recovery.[21]

The policy of assisted transference was pursued between 1929 and 1938, an estimated 283,118 people being transferred in that period. The effect of that policy, although originally intended to be politically neutralising came increasing to be seen in addition as economically enabling in that it created a supply of labour for the expanding industries of the South and East. It "assists the movement of industry in that the State bears a cost

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19 Cmd. 3283 pp. 238-9.

20 Cmd. 4728. Report on West Cumberland and Haltwhistle, p. 38.

21 See for example a letter from the publicity officer of the North Eastern Development Board to the Times, 24 Oct. 1936.

which might otherwise be thrown on to the worker or entrepreneur, while there is also the possibility that without such intervention migration would be diminished and the industrial development in prosperous areas impeded."[22] Moreover, by increasing the supply of labour, transference tended to prevent increases in wage rates because of shortages of labour.

The impact of the policy was, however, limited, not least because of the opposition which developed to it not only within the depressed areas but also within the outside recipient areas who saw, at the height of the depression, their unemployment worsened as a consequence of it. Although repeated pleas were made for its improvement[23] there was an increasing lack of consensus over its adequacy as a solution to the problem. By 1936 there was widespread resistance to the policy as the "negative way with depression" and as "a policy for individuals not communities."[24] By itself, the policy could not have solved the problem of the areas, indeed it had as its consequence a worsening of their position in that it removed the ablest members of the community leaving behind a residuary of the old and unemployable, decreased financial resources and imperilled local government.[25] Pursuit of a policy of transference implied the run

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22 Dennison, op.cit., p. 103.

23 See for example, The Times, 20 March 1935.

24 The Times 8 Oct. 1935.

25 Owen, "The Social Consequences of Industrial Transference" (1937) 29 Sociological Review, pp. 331-54. The logical consequence of the limitations inherent in the policy was the total clearance of the population of the areas involved. Such a scheme was in fact prepared by the Ministry of Labour for implementation in South West Durham in 1939. It was suspended on the outbreak of war and could not be restarted in 1946 because of "fierce local antagonism." P.R.O. Cab. 23/174.

down of the areas which were the focus of the policy. The alternative, their revival, involved two distinct possibilities; either the revival of existing employment opportunities in the basic industries or else the introduction of new ones through the alteration of the "initial position" of the areas. It is sufficient at this stage to note the existence of these alternatives. Their discussion can be left until the explanation of the legislation.

There were, in addition, a number of other locally applied measures focussing on the populations involved which can be examined at this stage.

(b) The Social Services Movement

The National Council of Social Services had been formed in 1921 with the object of stimulating and coordinating the work of various charity organisations. Throughout the inter-war period it was responsible for the application of a number of ameliorative measures which had as their main purpose the maintenance of the employability of the population of the areas. Although it was used extensively by the Commissioner for England and Wales appointed under the Act of 1934; all social services grants being centralised through it in 1935 and was criticised by opponents of government policy as an attempt to shelve the argued for responsibility of government through reliance on outside voluntary agencies, the measures pursued by it never projected the appearance of a sufficient solution to the problem. As the Times cryptically pointed out in 1936, "all that the Commissioner for the Areas is doing, and all the supplementary welfare of many voluntary organisations, and all the philanthropic expenditure entailed in these well directed activities do not get to the core of the people's need. That need is employment."[26]

The work of organisations like the National Council of Social Service and the Society of Friends was additionally supplemented by the activities of various "moral entrepreneurs." Mr. Peter Scott, for example, was

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26 The Times, 8 May 1936.

responsible for at least three schemes which were the recipients of government funds; a works at Brynmawr in South Wales making boots and furniture, the Eastern Valley Production Society and the Upholland Experiment near Wigan. In all they received grants of more than £100,000, apart from money received from private donations. Such activity promoted a vested interest in depicting the condition of the areas in the worst possible light. "The Commissioner has assisted social services liberally, but money is always needed from the public, and the task of obtaining that money creates a direct interest in painting the picture blacker than it really is."[27] Taken in conjunction with government publicity to promote transference, such activity was likely to lead to some distortion of the position of the areas. "By darkening the truth in order to evoke sympathy it is all to easy to do the areas the disservice of scaring new industry away."[28]

(c) Self-Help

We have already seen that the means adopted for the pursuance of the policy of transference were partly based on the individualist principle of need as an incentive to work.[29] The emphasis placed, with varying degrees of intensity during the inter-war period, upon the necessity of self-help as a precondition of industrial revival, was a reflection of a differing aspect of the same perspective; "the duty of each locality to carry its own burden."[30] The Industrial Transference Board had been adamant that, "in our view government action can be of little avail in any attack on this problem without the active help of the whole community."[31] Defending criticisms of the amount of money allocated

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27 The Times, 3 Nov. 1937.

28 ibid.

29 supra.,

30 supra.,

31 Cmd. 3156, p. 18.

to the depressed areas, the Times said in November 1934, "to minds not blinded by prejudice it should be clear that it is not the amount of money that is poured into the depressed areas which will retrieve their forlorn state, but the strength and the courage and hopeful purpose that can be aroused in the men and women which the depression has overwhelmed, and the useful direction that can be given to their future lives."[32] After a year spent vacillating between approval and disapproval of government policy it stated that, "the first concern is to awaken in the people of West Cumberland a realization that they must organise to help themselves, and so demonstrate that they deserve outside support."[33]

Local self-help was organised on the basis of development councils which assumed increasing importance. By the end of 1935 they were a feature of all depressed areas both within and outside the officially designated special areas. They provided a forum for the promotion of the views of local industry and discussion between it and outside agencies, including government. As such their influence was considerable and their position was strengthened by their eligibility for assistance under the Local Government Publicity Act 1931.

(d) Land Settlement

Finally mention should be made of the variety of schemes of land settlement which had as their objective the settling of the surplus population on the land. They therefore reflected a flight from industry to agriculture and, for many of their proponents, a desire to preserve symbolic elements of a previous, essentially agrarian, mode of production. The Land Settlement Association was formed in July 1934 with Treasury assistance and with the objective of settling 2,460 families on the land. By the end of September 1937, 1,108 families (5,356 persons) had in fact been settled.

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32 The Times, 17 Nov. 1934.

33 The Times, 25 Nov. 1935.

These schemes were, however, unlikely to have much impact on the problem. The Investigator into Cumberland quoted with approval the verdict of the University of Manchester that, "with the present level of prices and profits there hardly seems a case in Cumberland for the necessary investment which would be involved in putting more people on the land. If such a policy, were pursued, it would have to be undertaken with the broader social point of view in mind that, whilst not immediately economical from the side of monetary returns, it justified itself by providing occupation for many who were threatening to lose their employability through continued unemployment.[34] Such schemes had, therefore, as their purpose the maintenance of employability rather than the provision of a solution to the problem. Nor did they render people self-supporting but rather forced them into a depressed and declining industry with no ultimate prospect of being self-supporting. They were thus in essence sub-economic.

By the end of 1935 the Commissioner for England and Wales had concluded that, "no large scale resettlement would work". Rather the effects of land settlement were to depress agricultural workers' standards of living, contract the market for the produce of existing growers, add nothing to the demand for manufactured goods and depress the level of prices and therefore the standard of living of all producers.[35] The Report on Land Settlement made for the Carnegie Trust in 1934 came to the same conclusion that, "under existing economic conditions settlement on the land offers little hope of creating new employment."[36]

There were in addition a variety of other subsistence schemes which had as their purpose the maintenance of the employability of the surplus

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34 Cmd. 4728, Report on Cumberland and Haltwhistle, para. 13.

35 Report of the Commissioner of the Special Areas; England and Wales, 1936, Cmd. 5090, p.

36 Quoted in Dennison, op.cit., p. 168.

labour. As a condition of eligibility for Treasury assistance they could not be carried on for profit. Mr. Peter Scott's, "extremely interesting though costly" subsistence production experiment at Upholland was representative.[37] Its purpose was described by the Times as being the testing of, "the possibility of a collective and balanced scheme of production by a group or society of unemployed men and of a workeable system of distribution and exchange within the group. There is no question of sale or exchange outside the group and therefore no possibility of competition with ordinary industry ... [such a scheme] ... will not revive industries that have decayed; it will not modify the stern necessity of moving all the young employable people to where industry is vital and expanding, it will not abolish dependence. But, if its promise is fulfilled, it will bring success to hopeless men and even hopeless communities and reestablish them as useful and productive, but non-competitive members of society."[38] As, however, with land settlement generally the impact of such schemes on the problem was minimal.

(ii) Explanation of the Legislative Intervention

We argued above that existing explanations of the legislation are ahistorical. It is our hypothesis that the genesis and function of the legislation is rather explicable in terms of the two functions of the state in relation to the economy which we have already identified; its enabling and neutralising functions.[39] In the performance of the former the state enables the carrying on of economic activity, through, for example, the guarantee of security for expectations. It may, however, go beyond this minimalist position and actively intervene to provide powers to individual

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37 The Times, 3 Nov. 1935.

38 The Times, 6 Nov. 1934.

39 Supra.

industries to achieve results, which, without that intervention, would be impossible and we have seen examples of this in the reorganisation legislation of the period.

A necessary corollary of this function is the rendering of the consequences of the carrying on of economic activity politically acceptable. Accordingly we could expect the state to intervene to neutralise problems or conflicts perceived as inimical to its future and hence the continued carrying on of economic activity. The performance of this function may have as its consequence the neutralisation of the problem through its removal, that is its solution. That is not, however, a necessary consequence and a problem may equally be successfully neutralised through, for example, the successful denial of its existence or its translation into another form.

Applying this analysis to the problem of the depressed areas it may be hypothesised that the perception of the economic and social deprivation which was a consequence of the locational changes taking place could be and in this case, was, given political expression. Having accepted responsibility for the relief of unemployment generally there was an onus on government to intervene in a problem reconceptualised as one of unemployment rather than as one of surplus populations, an onus which was, moreover, increased by the necessity of guaranteeing the locational changes taking place. It accordingly intervened to neutralise the problem its solution being precluded by the existence of two constraints on state action; the first economic, the second ideological.

As has been seen the areas revival was dependent upon one of two things; either the expansion of exciting employment opportunities or else the introduction of new ones through the alteration of the "initial position" of the areas. As regards the former the inhibition on its implementation was economic. It would have involved the attempted revival of the basic industries. Their history in this period, was one, however

of inevitable decline and the recognition of the necessity of this decline and of adjusting to it was implicit in the policies pursued by the industries and the banks with the acquiesence and sometimes active assistance of the government. That policy was to reorganise and reduce the capacity of the various basic industries. We would not, therefore, expect their attempted revival.

If existing employment opportunities could not be revived the alternative lay in the introduction of new employment. This could have been done either through schemes of public works or else through the location of new industries in the areas through intervention in the locational decisions of industry. Once again neither of these remedies existed as a political possibility. The inhibition on their implementation was not however their perception as contrary to existing policy but rather their non-perception as remedies. The perspective of politicians in this context operated not only to reinforce an existing view of social reality but also to exclude certain courses of action as being in conflict with basic tenets of that perspective. Stanley Baldwin's and Neville Chamberlain's view of state expenditure and schemes of public has already been outlined,[40] a view which was, moreover reinforced by a direct political consideration, namely that the most influential political exponent of such a policy was Lloyd George.[41]

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40 supra.

41 Neville Chamberlain explaining his refusal to sit with Lloyd George in the Cabinet, wrote in his diary, "my decision was not due to recollecting of past grievances but to my conviction that L.G.'s ideas of how to run the Govt. were so fundamentally different from mine that I felt we should soon be at loggerheads." N.C. 23a 28 Jan. 1935. He further notes in conversation with Warren Fisher that, "I fully realised that my refusal to sit with L.G. might invoke my exclusion from office. I said I would not sit with him without selling my principles and becoming a party to the destruction of all I had worked for as Chancellor." N.C. 23a 29 Jan. 1935.

Similarly the introduction of new industries was regarded as the infraction of the natural laws of industrial location. The particular ideology underpinning this refusal to consider the introduction of new employment opportunities is well expressed by Lord Eustace Percy, who as President of the Board of Education between 1924 and 1929 was one of the first Cabinet Ministers to have experience of the problem. In his memoirs he said, "Because I saw the facts, I did take a somewhat defeatist view of the possible solutions to the problem. There were, basically only two possible solutions: new industry or migration. Not that I was alone in my defeatism. It is difficult to realise how slowly their pre-war predecessors of all political complexions rid themselves of the assumption that the movements of industry must necessarily be determined by solid economic motives and the "artificial attraction" of new industries to depressed areas must therefore run counter to fundamental laws."[42]

Since this was written some twenty to thirty years after the events and in the light of post-war experience, it may unconsciously overemphasise the gulf between then and now and thus distort the prevalent prespective. There are however many other examples. One of the most instructive of how the problem was viewed and the development of which it was the expression rationalised, is that of a speech of Oliver Stanley, then Minister of Labour, on the Ministry of Labour estimates some four months before the first Act. History was the witness he invoked in his attempt at a "short analysis" of the problem. "The whole economic history of the world has been of the rise and fall of particular industries, and the whole history of any civilised nation has been that of the inevitable decline of the heavier industries as its civilisation has become more and more complex." What was happening was, therefore, to be expected. It was in the nature

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42 Percy of Newcastle, Some Memories (1958) pp. 113-4.

of things; the inevitable corollary of the development of a civilised nation. Indeed had it not happened then and only then would there have been cause for concern. Any intervention on the part of the government would therefore be both senseless and futile. "It is quite clear that the normal economic process which we have learned to expect has been working, and that, as labour is relieved by the easier production of, and reduced demand for, the commoner necessities of life, so that labour has been absorbed by the more intricate requirements of a more advanced civilisation ... Although, of course, that change over may create, and does create, in certain areas and in certain industries, very grave problems and very heavy stresses, yet I do not think one is entitled to regard it as an unhealthy symptom of a developed civilisation; and I am sure that it would be not only unwise, but impossible, for any Government to attempt to fight against an economic tide of that kind and try to standardise at any time the prosperity of this or that industry."[43]

On this analysis the Special Areas Acts emerge as the legislative expression of a contradiction in the role of the State; acting at once to reduce the capacity of the basic industries upon which the areas relied upon for the provision of employment whilst at the same time called upon to intervene and solve the problems of those self-same areas. We thus have two opposed pictures of the emergence and functions of the legislation. First it was an attempt, albeit a poor one to solve the problem of the areas. Secondly although there were instrumental aspects to the

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43 Hansard 5th Sers. H.C. Debs. Vol. 292. cols. 1827-9. 25 July 1934, and further ..., "It will, I think, be agreed that it would be impossible for any Government, so long as industry has any connection, either in its production or distribution, with geographical or geological features, to standardise the prosperity of an area." ibid.

enacted legislation, recourse was had to law primarily for the symbolic impact inherent in the use of the legislative form, its function being the neutralisation of the politically expressed problem of the depressed areas. Our purpose in the remaining chapters is therefore through to recreation of the legislative process to establish the validity of the latter whilst discounting the former.

(iii) The Forms of Intervention

The dilemma confronting the National Government when met with demands that it intervene to solve the problem of the depressed areas has been accurately summarised by Dennison. "If the causes which have created the depressed areas are to be removed, then it is necessary to reverse the trends of locational change ... this would involve a decision on certain matters of fundamental importance; it would have to be decided in fact whether industrial development should proceed along the lines of the past two decades or whether industry should be made, or encouraged, to return to the depressed areas."[44] Although, as we have argued, the effective solution of the problem was precluded by the existence of both economic and ideological constraints upon government action, the alternative approach mooted by Dennison of the provision of new industries in the areas, was reducible to two alternative courses of action; either the compulsory location of new industries in the areas or else their artificial attraction to the areas. The latter facilitative approach witnessed considerable developments during the nineteen-thirties and these developments are therefore summarised here. Their origins and overall significance will be examined in our recreation of the legislative process. It is however important to note at this stage that, in the main, these developments originated with the Commissioners for the Special Areas and that they were therefore, subsequent to and a product of, the first legislative intervention.

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44 Dennison, op.cit., p. 156.

(a) Preference in Government Contracts

By far the most common response to the problems of the areas involving intervention in industry was the advocacy of the exercise by Government of preference in favour of the areas in the granting of contracts. This proposal did not therefore have as its exclusive focus the establishment of new industries in the areas but was equally applicable to the retention of existing industry.

The advocacy of the exercise of preference did not, however, entail its immediate and unqualified acceptance. In so far as its implementation would involve active discrimination in favour of some firms at the expense of others it conflicted with the prevalent orthodoxy of Government intervention which required uniformity and equality of treatment. As the Times pointed out, "but for the Government to offer preferential terms, either on contracts or in wage subsidies in the depressed areas would be a questionable expedient."[45] Nevertheless a majority of the investigators advocated the placing of government contracts in the areas as a means of solving their problems; a recommendation which was continued by the first Commissioner for the Special Areas.

Captain D. Euan Wallace in his investigation into Durham and Tyneside recommended that in solving the problems of the shipbuilding industry only one practical step could be taken. This step, "would involve so fundamental a change in the position of government as purchaser as will in all probability exclude it from consideration ab initio. It would be nothing less than the abandonment of the well-established system of purchase by competitive tender, with all the advantages, political as well as economic, which are inherent in it, and the utilisation of the purchasing

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45 The Times, 14 Nov. 1934.

power of Government departments as an instrument of policy."[46] Sir Wyndham Portal suggested that the Government should offer producers ten year firm contracts as an inducement to setting up in the depressed areas[47] whilst Sir Arthur Rose, "believed that [he was] justified in suggesting that a designed direction of government orders in rather larger proportions than of recent times to the Clyde area would alleviate in a remarkably wide degree and out of proportion to what it would do in other areas, the widespread and severe conditions of depression which exist therein."[48]

Local Development Councils were also in favour of the recommendations[49] and in December 1935 they were accepted by the Government particularly in relation to armament contracts. "The urgency and scope of the defence programme," the Times commented, "gives them [the Government] an unrivalled chance to exercise the power of the customer."[50] Between April and September 1936, although the operation of the policy had not resulted in the location of any new industries in the areas, orders worth £8,900,000 had been placed with firms in the Special Areas by the Service Departments.[51]

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46 Cmd. 4728, pp. 78-9.

47 ibid., Part III Section 5.

48 ibid., p. 225.

49 See for example the Times, 16 Oct. 1935.

50 The Times, 11 Aug. 1936.

51 Third Report of the Commissioner of the Special Areas, England and Wales. Cmd. 5303 (1936) p. 17. Although no new factories were established in the areas as a result of the policy during this period there is evidence to suggest that the Government influenced by strategic considerations would require the relocation of firms before any new contracts would be awarded. The aircraft firm of Boulton and Paul were refused new aircraft orders until they moved from Norwich which was regarded as too vulnerable. Information taken from minutes of meeting held at P.E.P. 24 Sept. 1937.

Preference was given on an "all other things being equal" basis and extended not only to defence but also to civilian contracts. Thus the Railways (Agreement) Act 1935 which gave a loan of £26.5 millions for railway modernization and the London Passenger Transport (Agreement) Act 1935, which gave financial assistance to railway electrification carried on in London by the London Passenger Transport Board provided for the inclusion of a clause giving preference to firms in the Special Areas in contracts concluded with the Railway Companies. The clause specified that, "all plant, machinery and materials required in connection with the said works shall so far as practicable be of United Kingdom origin and all manufactured articles shall (unless the Treasury shall otherwise agree in writing) be wholly manufactured in the United Kingdom (preference being given other things be equal to firms in the Special Areas as defined in the First Schedule to the Special Areas (Development and Improvement) Act 1934) and all contracters relating to the said works shall require to certify on their own behalf and on behalf of their sub-contractors that such stipulations shall be carried out and the Railway Companies shall take all reasonable steps to ensure that such stipulations are observed by their contractors and report to the Treasury any modification of a failure to give such certificate."[52] Protection of British manufacturers was thus coupled with preference for manufacturers in the Special Areas. By the end of 1936 orders worth over £1.5 millions had been placed in the Special Areas as a result of these clauses.

The acceptance of the recommendations involved a rejection of the prevailing orthodoxy in relation to government contracts and the replacement of equality and uniformity of treatment by discrimination and selectivity. The new policy had therefore disadvantages as well as advantages

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52 Cmd. 5090, p. 17.

its implementation, for example, being opposed by manufacturers outside the Special Areas.[53] As Dennison pointed out, preference in the allocation of contracts while far from being a complete solution to the problem of the areas, "seems to have been carried to a stage sufficient to cause protests from firms outside the areas, and to have involved a fair degree of cost differences,"[54] considerations that might have prompted the conclusion that the advantages of the new policy did not outweigh its disadvantages.

(b) Inducements

Section 1(5) of the Special Areas (Development and Improvement) Act 1934 precluded the provision of financial assistance to any undertaking carried on for the purposes of gain. The Commissioner argued increasingly that such a provision was illogical in that any assistance whatsoever would be of indirect benefit to firms within the areas and that moreover financial assistance and inducements had been already liberally used by the Government to assist the reorganisation and development of many industries.[55] It was further argued that the provision of financial inducements would enable the Commissioners to overcome those features of the areas which had rendered them unattractive to industrialists. This conflict crystallized and was resolved, in the debate over the Act of 1937 which made a variety of inducements available and accordingly marked the extension of financial assistance from a sectoral to a regional basis.

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53 for their complaint see P.R.O. T. 172/1828: letter 8 Mar. 1937.

54 Dennison, op.cit., p. 170.

55 See for example s.25 of the Finance Act 1935 which authorized the deduction from profits of contributions paid towards the rationalisation of the industry.

There was also considerable debate over the form which inducements should take and whether, in view of the continued growth of London, their provision should be coupled with disincentives against locating new industry in the South-East. In his third report the Commissioner pointed out that, "the microcosm of London grows with a rapidity which is beginning to cause alarm."[56] Control of that growth and an amelioration of the position of the Special Areas had, he argued, proved impossible on the basis of persuasion and whilst he was against the compulsory location of industry, "was there not justification for instructing it where it should not go, unless good cause can be shown for so doing."[57]

The proposals for the provision of inducements were, however, tempered by the fear that a likely feature of their operation would be the emergence of unfair competition. Where therefore, "it could be demonstrated to the satisfaction of some impartial tribunal that a new industry attracted thereby to one of the areas, would seriously prejudice the prospects of an industry already there established and producing the same type of goods, equivalent concessions should be applied to the existing industry."[58]

The Special Areas (Amendment) Act 1937 removed the restrictions on the assistance of profit-making concerns and empowered the Commissioner to pay the rent, rates and income tax, of any firm setting up within the areas, for a specified period of usually between three and five years. In addition the Finance Act 1937 remitted the National Defence Contribution of assisted firms.[59]

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56 Cmd. 5303, p. 7.

57 ibid., p. 8.

58 ibid., p. 11.

59 Section 19(7).

The policy did not, however, have the effects which had been hoped for. It was not coupled with a system of disincentives against establishing in the South-East and its operation gave rise to protests from firms outside the areas about the subsidising of competitors and dismay on the part of already established firms within the areas. The policy was applied with great caution; subsidies not being granted unless the Commissioner was satisfied that the firm would not be in direct competition with established firms. "It is clear that such a method would be quite inapplicable if the inducements were to be the main item of a policy sufficiently extensive to solve the difficulties of the depressed areas".[60] Between June 1937 and September 1938 only twenty factories, providing employment for some 3,000 people were assisted.[61]

(c) Trading Estates

Most commentators assume that trading estates were a consequence of the Act of 1937.[62] Their establishment was in fact "a subterfuge" subsequently legitimised by the Act of 1937. They had originally been proposed by the Commissioner in August 1935, "the needs of the areas however are such that I came to the conclusion that it was justifiable in the circumstances to recommend the adoption of the novel and unorthodox proposal of establishing trading estates financed out of Exchequer funds."[63] These proposals were based on the already existing private trading estates at Slough, Welwyn Garden City and Trafford Park. There, the provision of land, buildings and services for rent, obviated many of the capital costs involved in commencing production.

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60 Dennison, op.cit., p. 108.

61 ibid., p. 102.

62 See for example, Pollard, op.cit., p. 133, Mowat, op.cit., p. 566.

63 Cmd. 5090, p. 16.

The institution of similar, publicly-financed schemes, however, faced a number of difficulties, the most important of which was the prohibition contained in section 1(5) of the Act of 1934 on the assistance of undertakings carried on for the purposes of gain. The Commissioner proposed overcoming this prohibition by the establishment of a public utility company which would not operate for profit and which would acquire cleared sites in the areas, erect factories and let them at economic rents.

This proposal was opposed by the Treasury which insisted that the Commissioner retain responsibility for the proposed company and that its activities be governed by the Act of 1934 and in particular by section 1(5).[64] In the ensuing conflict between the Treasury and the Commissioner it was pointed out on behalf of the latter that in law the proposed company would have an identity separate from the Commissioner[65] and that accordingly whilst there might be "administrative objectives" to the establishment of the company, there were no legal ones. The Treasury conceded the principle but retained a measure of control though the stipulation that the debenture would be taken up by the Treasury's Solicitor.[66] North Eastern Trading Estates Limited was accordingly established as a company limited by guarantees, not having a share capital, in February 1936.

In August 1936 the site of the first estate at Team Valley near Gateshead was announced; the Times commenting that, "there is a chance therefore to expand the policy of which the new trading estates are a beginning into something much larger and more desiring. Such a course would be a signal instance of that leadership which the public today so insistently demands."[67] Subsequent estates followed at Treforest in South

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64 P.R.O. Lab 16/16. Part I: Letter, 6 Nov. 1935.

65 Salomon v. Salomon [1897] A.C. 22.

66 Supra.

67 The Times, 11 Aug. 1936.

Wales and Hillington in Glasgow. These estates were undoubtedly the most favourably regarded of all the solutions proposed to the problems of the areas. Despite Treasury refusal to sanction purpose-built factories[68] expectations of their effects upon the problem were optimistic. Their results were therefore something of a disappointment in that by the outbreak of war a mere 7,400 people were employed in them.

(iv) Control of Location

An important feature of the above analysis is the emergence of successive reconceptualisations of the problem. It had originally been conceptualised as one of surplus populations and had thereafter become successively reconceptualised as one of severe localised unemployment and depressed areas, one of the adequacy of the legislative intervention and finally with the setting up in 1937 of the Royal Commission on the Distribution of the Industrial Population, as one of the location of industry; the different conceptualisations of the problem corresponding to different phases in the legislative development.

The recognition that the recovery of the areas was by no means automatic had engendered the debate over solutions which we have discussed and it was in this context that the compulsory location of industry was first mooted. Captain D. Euan Wallace pointed out in his report that the form of assistance to the areas raised questions of general policy; the first of which was, "the attitude of the Government towards the location of industry."[69] The time had come he suggested,"when the Government [could] no longer regard with indifference a line of development which, while it may possess the initial advantage of providing more

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68 P.R.O. Lab 16/16 Part I. Re proposed wood pulp mill at Jarrow. 10 Dec. 1936.

69 Cmd. 4728, p. 107.

employment, appears upon a long view to be detrimental to the best interests of the country; and the first practical step which could be taken towards exercising a measure of control in this direction would seem to be some form of national planning of industry."[70] In a similar vein the University of Manchester investigators recommended that, "the State should ... play a much larger part in regulating the initial location of new industries or businesses so that, if later they should close down, the chance that they will leave behind them an insuperable unemployment will be lessened."[71]

These arguments were, however, never accepted by the Government the only steps being taken towards the establishment of new industries being the provision of inducements. There was, however, one exception to the non-involvement of government in questions of location and that was in the case of foreign firms.

Foreign businessmen who, from either a desire to escape political persecution or in an attempt to overcome tariff barriers, wanted to establish or extend undertakings in this country, were subject to considerable pressure after June 1936 to establish those undertakings in the special and older industrial areas. The pressure used was extra-legal; leverage being provided by the necessity of a residence permit. The Parliamentary Secretary to the Board of Trade explained the system in an adjournment debate on the location of industry. "Occasionally aliens who live in countries not so happy as this one wish to come over here to establish undertakings and during the past 18 months consultations have been going on between the Home Office, the Ministry of Labour and the Board of Trade in order to point out to them the great desireability

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70 ibid.

71 Cmd. 4728. p. 49.

of establishing their undertakings in the Special Areas; and so persuasive have been the gentlemen who have been dealing with this question that no fewer than 14 undertakings have been established during the last 18 months in the Special Areas and 31 in the older industrial areas, where they will be particularly welcome."[72] Their impact on the problem was, however slight.[73]

Having therefore examined the solutions proposed to the problem and having formulated our explanation of the legislation intervention it therefore remains, through the recreation of the legislative process, to establish its validity.

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72 Hansard 5th Sers. H.C. Debs. vol. 330, col. 464.8 Dec. 1937.

73 Dennison, op.cit., p. 69.

7. THE LEGISLATIVE INTERVENTION

(i) The First Phase; 1923-33

Harold Macmillan's predecessor as Member of Parliament for Stockton-on-Tees, Trevelyan Thomas, had drawn the attention of the House of Commons to the persistent shortage of work which had emerged in the coal and shipbuilding industries as early as 1923. The debate which was a consequence of the growing recognition of the problem in the first post-war decade revealed the absence of any consensus over the origins of the problem and a widespread belief that no matter its origins it would essentially solve itself and that nothing more than temporary intervention was therefore required. "These difficulties were generally regarded as capable of being treated apart from any fundamental changes of financial or economic policy. In other words it was thought to be a matter of affording some temporary succour until the general recovery of the country should apread out automatically from the centre to the periphery."[1]

Recovery was therefore seen as the product of two factors. Firstly the operation of market forces and secondly the policies instituted by local authorities who had primary responsibility for the relief of unemployment. Eustace Percy, describing his approach to the problem as President of the Board of Education confirms this analysis. "So long as Whitehall and Westminster continued in the old manner to rely for the provision of employment and the relief of distress upon the economic impulses of free enterprise and the administrative responsibility of local authorities it was above all things necessary to hearten by one's personal presence local authorities whom economic impulses had left in the lurch."[2]

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1 H. Macmillan, Winds of Change, 1914-39 (1966) p. 293.

2 Percy of Newcastle, op.cit., p. 118.

Early proposals thus focussed upon relieving the impact of unemployment on local government in the areas. The Conservative Government of 1924 introduced minor alleviating measures in relation to local goverment finance which culminated with the measures of derating, local government finance revision and equalisation of freight charges in 1928 and 1929. Neville Chamberlain as Minister of Health had originally argued that the provision of services and the maintenance of local government in the necessitous areas required the revision of local government finance through the greater use of central government block grants. Derating was, however, added by Winston Churchill as Chancellor of the Exchequer although there was no agreement on its effects[3] and Chamberlain was opposed to it. Both measures, including the equalisation of freight charges, were instituted by the Local Government Act 1929.[4]

The institution of schemes of industrial tranceference in 1928 was indicative of the broadened view which was taken of the problem and constituted direct recognition of the inadequacy of existing norms and institutions for the relief of unemployment on the scale which existed in the areas and heralded their eventual transfer from a local to a national responsibility. Their institution was also indicative of the conceptualisation of the problem as one of the surplus populations by the Government.

A Cabinet Committee was set up in November 1927 to discuss ways of dealing with miners, "whose chances of finding their own work in their own areas must be taken as dead."[5] Neville Chamberlain's original view had been that the problem was a logical part of poor-law reform and he accordingly recommended the assignation of responsibility to the

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3 supra.,

4 Feiling, op.cit., pp. 144-8.

5 ibid., p. 142. For the setting up of the Committee see, P.R.O. Cab. 23/55 59 (27) 4.30)

Employment Exchanges who should be empowered to lend money to the unemployed. This proposal did not command any support. His revised proposals reveal that not only was the appropriate solution seen as one of transference but also the political importance attached to being seen to be doing something about the problem. "The Minister of Health said that the plan he now proposed to outline would have a certain dramatic effect in political circles. He proposed to treat the situation in the coalfield as an emergency problem, and to give power to the Ministry of Labour to schedule black spots in special areas, and set up a new ad hoc control authority of three commissioners whose sole business it would be to try and transfer redundant labour from those areas. Such a body could not make work, but it would have some practical advantages. It would have nothing else to do, it would be new and attract attention."[6] "Hopefully they [would] attack the problem as a crusade, to drag human beings out of those stagnant pools."[7]

The Industrial Transference Board was set up in January 1928 and its policy was expanded during that year. In December 1928 the continuance of the problem led to the setting up of a Distressed Areas Committee of the Cabinet. Its membership consisted of Stanley Baldwin, the Prime Minister as chairman, Winston Churchill, Neville Chamberlain and Eustace Percy. The Committee met only once until its revival by the National Government in 1934. It discussed the adequacy of existing measures for dealing with the depressed areas and Neville Chamberlain emphasised the importance of concentrating upon transference and the danger that other measures could interfere with its successful pursuit. The potential gravity of the situation was underlined by their decision to put in hand contingency plans for communal feeding in the event of the situation worsening.[8]

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6 Report, Proceedings and Memorandum of the Cabinet Committee on Unemployment in the Coal Trade. P.R.O. 1927. Cab. 27/358.

7 Feiling, op.cit., p. 143.

8 P.R.O. Cab. 27. 381. D.A.C. 28. 14 Dec. 1928.

1929 marked the onset of worsening depression and a change of government. With the onset of the depression the problem was submerged in the general sea of unemployment and it was not until the commencement of recovery that it was thrown into sharp relief. The failure of the Labour Government to institute any new schemes for the relief of unemployment meant that the problem remained essentially as before apart from the aggravation that was a result of the depression. Opposition from outside the depressed areas had also meant that little emphasis had been placed on the policy of transference. The reemergence of the problem as a politically contentious issue was, however, significantly marked by its increasing reconceptualisation as one of severe localised unemployment.

Interest was rekindled by the publication in 1932 of surveys of the areas which had been sponsored by the Board of Trade.[9] In July fifty Members of Parliament representing the distressed areas led by Sir Nicholas Grattan Doyle made representations to Ernest Brown, Parliamentary Secretary to the Ministry of Health.[10] The refusal of the Minister to make any statement on those representations led to an adjournment debate a week later which clearly illustrated the conflicting views of the origins of, and the appropriate remedies to, the problem.

Sir R. Asker spoke in favour of, "the radical remedy which those who represent those areas have advocated for many years, which is the broad principle that the maintenance of the able-bodied poor should be a charge on the State and not on the locality."[11] Mr. Braithwaite countered that if the burden were transferred to a national level, "how much more so is the administration of this matter likely to be carried out in a harsh and souless manner if administered from Whitehall."[12] The issue was not,

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9 Industrial Surveys of: South Wales; Lancashire Area, excluding Merseyside; Merseyside; North East Coast Area and South West of Scotland.

10 Hansard. 5th Sers. H.C. Debs. vol. 268. Col. 432. 6 July 1932.

11 ibid., col. 1349.

12 ibid., col. 1364.

however, solely regarded as one of the administration of unemployment relief. Other participants emphasised the necessity of alleviating the rate burden on local authorities within the areas. Differing views were also expressed on the origins of the problem. Mr. Braithwaite argued that it was, "true that we are discussing remedial measures but we shall err if we do not point out from this House just where those depressed areas are situated and the one good cause of their depression. If you look at the map of the United Kingdom you will find for the most part that the areas ... are those areas in which the socialists have control of local government and have been allowed to have their way." State-assistance to the areas would thus, "penalise those who administered soberly and allow Socialists to get the bit between their teeth and gallop off."[13]

The Minister of Health, Sir Hilton Young, replying to the debate outlined the view of the government. First, "the circumstances are not really worse than they have been; they are not really as bad as they have been in the past." Accordingly no further intervention was required. "Honourable Members have dismissed from their minds sensational or unsound remedies. They have dismissed the equalisation of the rates and the nationalisation of the Poor law services." Above all, however, "the overriding necessities of the financial position," required that, "everything by way of lax administration must be eliminated."[14]

Two months later the Holman Gregory Commission on Unemployment Insurance made its final report and recommended the transfer of responsibility for transistional payments to a separate body.[15] The result as has been seen was the transfer of the responsibility for unemployment relief from a local to a national level; a transfer which meant that it would be more difficult

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13 ibid.

14 ibid., col. 1368.

15 supra.,

for the Government to shirk responsibility for a problem conceptualised as one of unemployment.

The following February, after Neville Chamberlain had with "brutal frankness" declared that the problem of unemployment would remain for another ten years, forty Northern Members of Parliament, in a deputation to the Prime Minister, called upon the Government, "to embark on a well thought out policy of employment expansion, both public and private."[16] The Manchester Guardian commented that, "it might be amusing if the times were not so serious to see a Tory deputation entreating a Socialist Prime Minister to adopt state action in the interests of the unemployed."[17]

The attention focussed on the problem continued to increase both inside and outside of Parliament.[18] In April the Government sought a revision of the unemployment factor in the block grant formula. Its initial proposal was that the more fortunate areas should make some contribution out of their share of the block grant to the depressed areas. As an incentive to agreement the Government proposed to provide an additional contribution equal to one half of the sum it was anticipated might be reasonably provided by the less heavily burdened local authorities. An increase in the grant was therefore dependent upon agreement by the local authorities. At the same time it assented to a House of Common's motion "that responsibility for assistance to all able-bodied unemployed not over 65 should be accepted by the Government with such special adjustment in financial relations between the Exchequer and local authorities as is reasonable having special regard to the necessities of distressed areas."[19]

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16 Macmillan, Winds of Change, p. 294.

17 The Manchester Guardian, 18 Feb. 1933. The spatial expression of the problem meant that the issue was not divisible along party lines.

18 For its impact on the Marchioness of Londonderry see Thomas Jones, A Diary with Letters. 1931-50. (1954) pp. 99-100.

19 Hansard 5th Sers. H.C. Debs. vol. 276. cols. 2607-11 12 April 1933.

The local authorities successfully resisted these proposals, both because the more prosperous of them had their own problems and also because, "they have taken the view for years that it was not their business to deal with the problem of unemployment and they naturally refused this simple plan of feeding the dog with its own tail and giving fifty per cent of the government's tail as well to make the meal."[20] Others were not slow to comment on the parsimony which marked the Government's proposal. "But no excess of sympathy need be lavished on the Government. They have been ready enough to shuffle of their responsibility on to voluntary charity or on to the back of local authorities whose expenditure had the one virtue of not appearing on the national account; they have now to taste some of their own medicine."[21]

Faced with opposition from the local authorities and under pressure from their own backbenchers the Government withdrew and produced an amended proposal. In doing so they were not slow to make a virtue of necessity whilst indicating that the point was not yet conceded. The new proposals envisaged the provision of £500,000 by the Government in special grants to local authorities in distressed areas in the United Kingdom during the year ending 31st March 1934.[22] Hilton Young introducing the estimate spoke of "the burden of out-relief [pressing] with exceptional weight upon the ratepayers." It was "thus fundamental to do something otherwise local government would break down." The need for financial stringency ought, however, to be borne firmly in mind.

Despite the promise of assistance Sir Arthur Greenwood for the Opposition moved an amendment, "because of the Minister's complacency and lack of real grasp of the human tragedy that lies behind this matter."

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20 Hansard 5th Sers. H.C. Debs. vol. 280. col. 533. Sir Arthur Greenwood. 6 July 1933.

21 Manchester Guardian, 23 June 1933.

22 Hansard. 5th Sers. H.C. Debs. vol. 280. cols. 517-629. 6 July 1933.

The government policy of reduced public expenditure had reduced the purchasing power of the areas. He feared that talk of "good administration" meant that "the weapon of that miserable sum would be used to bring down the scales of out-relief of certain local authorities."[23] Others were equally fundamentally opposed to the proposals on the contrary grounds that they went too far. Mr. Wise felt that, "just as high rates ruin cities high taxes ruin countries. Unless the most rigid economy is still unattained I feel certain that the evil which we are trying to cure will be aggravated by forced injections of national money which should be saved."[24]

There were, however, signs that the discussion of the problem was beginning to take on wider dimensions than merely that of relieving its impact on local authorities. John Dickie, Member of Parliament for Durham Consett pointed out that, "they must realise that all these attempts to deal with the problem by tinkering with relief will not result in any improvement whatsoever ... It is almost childish to say that the real solution of the problem is to get the unemployed back to work."[25] The problem was one of the decline of the basic industries and the failure of new industries to establish themselves in the North. This explanation was rejected by Leslie Burgin, Parliamentary Secretary to the Board of Trade. Replying to the debate for the Government he said that, "any idea that there is a tendency to a drift of industry from other industrialized areas to the South is shown to be completely erroneous by the facts of 1932 as we know them in the Department."[26]

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23 ibid., col. 524-5.

24 ibid., col. 533.

25 ibid., col. 562 emphasis added.

26 ibid., col. 1204.

The policy of the Government at the end of 1933 was therefore restricted to relieving the impact of unemployment on the local authorities and the continuance of transference; the necessity of further intervention being denied.

(ii) The Second Phase; Legislative Intervention

Awareness of the problem and pressure on the Government to intervene continued to increase during the early months of 1934; the growth of the recovery throwing the problem into sharper relief. Thomas Jones recounted in a letter to his wife how, "one gets the sense of a "movement" swelling up in South Wales, the coming together of the single streams from the separate settlements, mingling at Gregynog."[27] In the same month, the matter was raised for the first time since the depression in the Cabinet, in the form of a memorandum from the Minister of Health proposing a local inquiry into conditions in the depressed areas.[28] No conclusion was recorded.

The pressure for intervention was increased by the publication in the Times of three articles in March, giving the problem an exposure that was difficult to ignore. The articles were, the Times explained, a new survey undertaken by a special correspondent because of, "the terrible persistence of an unrelieved depression there and consequently the intensified decay of their industrial populations." Adding a moral dimension to the economic problem they consistuted a thinly veiled attack on those who had let the condition come about. The first article spoke of, "areas whose plight no amount of general trade recovery can cure, because their sole industry is not depressed but dead. It would be a failure of humanity to forget them, a failure of statesmanship to ignore

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27 Thomas Jones, op.cit., p. 120. Assistance for Depressed Areas. 4 Feb. 1954.

28 P.R.O. C P. 56. 34. Cab. 23 7(34) 12.28 Feb. 1934.

them ... There are parts of Durham where one feels strongly, sometimes angrily, that London still has no conception of the troubles that affect the industrial North."[29]

Having examined the problems of unemployment relief the third article turned to the question of solutions. Three main lines of action were necessary. First, the transference of younger people, second the establishment of new industries and third, the amelioration of the condition of those who could not be helped and who would not work again. Of the solutions proposed the second is of the most significance in that it represents an added dimension to the solutions proposed, moving beyond acquiesence in the results of the operation of market forces to the advocacy of intervention in the alteration of their consequences. The final recommendation was that people should be sent to investigate and report on the areas, their reports forming the basis for formulation of a plan of action.[30] A leader of the same day elaborated more fully on the reasons why action was necessary and should not moreover be feared. "The problem of the derelict areas is a special problem requiring separate examination and separate treatment. Too often it has been lost sight of in the general problem of unemployment and of unemployment relief. In fact it is fundamentally different ... The derelict areas are as clearly a separate part of the problem of unemployment as slum areas are a separate part of the problem of housing. They can easily be defined as a slum and are as easily susceptible of separate treatment. Moreover the derelict areas are a non-recurrent problem of an emergency type, and if they call for abnormal action and methods of treatment as

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29 The Times, 20-22 March 1934. The articles were the work of John Vernon Radcliffe Labour correspondent from 1923 to 1946.

30 The Times 22 March 1934.

undoubtedly they do, these methods will be self-liquidating. Their success will bring them to an end. In the consideration of remedial measures for a situation of emergency there need therefore be no cautious search for administrative parallels nor fear of establishing a precedent."[31] Intervention would not therefore entail acceptance of an unlimited responsibility but would by the very fact of its occurrence remove the problem.

Four days later the Times returned to the issue emphasising that it had been merely its intention to assist derelict as opposed to distressed areas. The problem demanded the creation of special machinery for its solution. Nor should it be forgotten that, "the creation of special machinery would have a psychological value hardly less than the practical value of any special measures which it might devise."[32]

The effect of the mounting criticism was to increase the pressure on the Government to intervene. Harold Macmillan commented that, "these revelations coming from so loyal a quarter had their effect."[33] Neville Chamberlain's diary disclosed a, "certain anxiety about the opposition developing on the Government side."[34] Clearly, "some gesture had become necessary, if only on political grounds."[35] Macmillan's analysis is undoubtedly correct for Neville Chamberlain's diary reveals that he had seen the Prime Minister, on the day after the publication of the Times leader. "I saw the P.M. today and suggested that we should make Portal a Special Commissioner to make a report on the Durham-Tyne area. This would at once meet the popular cry for something to be done forthwith

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31 ibid.

32 The Times 26 Mar. 1934.

33 Macmillan, Winds of Change, p. 295.

34 ibid. that is within his own party.

35 ibid.

and would give us the opportunity of trying out our man before actually appointing him to the Board. The P.M. liked the idea."[36]

On the following day the matter was formally raised in the Cabinet as part of the agenda and it is from this point on that we can see the accuracy of Feiling's contention that Chamberlain was responsible for the legislation and the ubiquity of the control which he exercised over its development. The Minister of Labour, Sir Henry Betterton, said that he had had for some time the idea of gaining greater information about the derelict areas and that he had been encouraged in this by the Chancellor of the Exchequer, Neville Chamberlain. The idea was approved in principle and it was suggested that the matter should be proceeded with informally and that the Minister should in addition keep in touch with the Prime Minister and the Chancellor of the Exchequer.[37]

Despite the decision to set in hand an investigation Ramsay Macdonald, in response to question on 12th April on what steps were being taken by the Government to provide employment in the areas, limited himself to a statement of the prevalent orthodoxy coupled with a denial of responsibility. "The policy which we have followed is one aimed at restoring confidence and creating employment in the country as a whole, and I have every hope that the trade improvement which the Government has done so much to secure will continue and extend to many of the places now counted as depressed. The initiative for providing employment in particular areas cannot, however, rest with the Government, though any practical measures to this end which are proposed to it will receive most sympathetic consideration and, wherever possible, active support."[38]

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36 N.C. 2/23a 27 March 1934. The Board in question was the Unemployment Assistance Board set up by the Unemployment Act 1934.

37 P.R.O. Cab. 23 13(34) 14. 28 March 1934.

38 Hansard. 5th Sers. H.C. Debs. vol. 288 cols. 462-4. 12 April 1934.

The Times found this, "apparent failure to acknowledge a special and urgent need, disquieting."[39]

However, "the apparent failure" concealed much that was taking place. Neville Chamberlain recounted the developments in his diary. "Further discussion with the P.M. and Betterton on the above subject matter in a decision to send 4 men to 4 areas viz. W.P., E.W., J.Q. and M. Macdonald. H. Betterton promised to prepare instructions for them on lines which I suggested. However when I came back I found nothing done so I went to the P.M. again and got him to promise to see the proposed Comrs. at once and also to sanction Betterton's making an announcement in the House. Afterwards B. sent me what he called a questionnaire for the Commissioners. It was quite unsuitable and though I was then engaged on my Budget speech I wrote a new set of instructions myself which was at once accepted. B also asked me to draft the question and answer in the House which I did. The P.M. rewrote the answer which was given last Thursday and created a very good impression."[40] It was thus on 19th April. less than one month after the appearance of the articles in the Times that the Minister of Labour announced that, "the Government have for some time been inquiring into the special problem of the derelict areas and have decided before proceeding to have inquiries made in typical places within the districts of Durham, South Wales, Cumberland and Scotland."[41] The areas had been chosen solely for the provision of information and did not therefore represent the areas in which any remedies might subsequently be applied. Moreover, since it was envisaged that the most valuable information would be verbal the reports of the investigators would not be published.

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39 The Times 13 April 1934.

40 N.C. 2/23 a 20 April 1934.

41 Hansard 5th Sers. H.C. Debs. vol. 288. col. 1100 19 April 1934.

The prospect of an investigation into the condition of the areas was, however, more illusory than real. The conclusions at which the investigators were expected to arrive were embodied in their outline instructions from Neville Chamberlain and were moreover impressed upon them at a meeting before they left. The instructions, themselves clearly illustrated that the pressure on the Government to intervene had wrought no change in its view of the problem. No mention was made of the possibility of the revival of the basic industries or of the introduction of new ones; the emphasis being placed on the existing policy of transference. "To the extent to which there seems no hope of finding employment on the spot, the only solution would seem to lie in transfer to other districts."[42] We may therefore conclude that the appointment of the investigators was primarily a means of reducing the pressure on and criticism of the Government which had the advantage that it did not commit the Government to intervention. Its response to the reports could therefore be geared to the perceived political necessities. What was wanted was not information but immediate relief; the former having already been provided by the surveys commissioned by the Board of Trade in 1932. Neville Chamberlain had, moreover, played a major part in the formulation of the Government's response to the pressure, the appointment of the investigators and the determination of their terms of reference.

The Times greeted the announcement of the Minister of Labour as "a move against the derelict areas" but pointed out that it was "to be hoped that they will be completed without delay. It is essential that before next winter the problem of derelict areas should be in a fair way to being solved."[43] Elsewhere the reception was favourable if

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42 P.R.O. T 172/1827. To Sir Henry Betterton 16 April 1934.

43 The Times 20 April 1934.

touched with a measure of scepticism. "The appointment of commissioners to discover Scotland, Durham,or South Wales had a somewhat ludicrous aspect, after all, this island was neither so large nor so unexplored as to require these intrepid Livingstones or Stanleys. However, since some good might well come of it all, we Northern Members, wisely refrained from criticism at this stage. It was something, in those days, even to be noticed by Whitehall. Moreover, with the Prime Minister a Durham member we felt we could look to sympathy at the top."[44]

One of the investigators at least, however, was suspicious of Neville Chamberlain's likely reaction to the reports. J.C.C.C. Davidson, Chancellor of the Duchy of Lancaster although enthusiastic about the inquiry[45] secured certain assurances before he left. "In 1934 he was asked to head an investigation into Cumberland, which was one of the worst distressed areas. Davidson extracted an undertaking from Macdonald that his report would be submitted to the Cabinet in the first instance and not to the Treasury."[46] His fears turned out to be justified. "Macdonald, on Neville Chamberlain's insistence, referred it to the Treasury, where it was whittled down before presentation to the Cabinet. Davidson was angry with both Macdonald and Baldwin who had permitted this to happen; it was an example of what Davidson describes as Baldwin's dilatoriness in what he considered to be minor matters. It was also an instance of Macdonald's relationship with Baldwin and Chamberlain."[47]

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44 Macmillan, The Winds of Change, p. 296.

45 Thomas Jones op.cit., p. 128.

46 Robert Rhodes Jones, Memoirs of a Conservative: J.C.C.C. Davidson's Memoirs and Papers, 1910-37. (1969) p. 402.

47 ibid. The episode is of significance in that not only is it indicative of the emphasis placed by Chamberlain on the necessity of financial stringency but it is also illustrative of the dominance he was able to exercise over the formulation of policy as a result of his position as Chancellor of the Exchequer. See further, J. Mackintosh, op.cit., pp. 461-2 and Daalder, op.cit., p. 203.

In July Oliver Stanley, who had replaced Henry Betterton as Minister of Labour on his appointment as chairman of the Unemployment Assistance Board, reaffirmed the Government's intention not to publish the investigator's reports.[48] A week later the criticism of the Government that had been muted since the appointment of the investigators broke out again on the debate on the Ministry of Labour's estimates. J.J. Lawson for the opposition moved that the Minister's salary be reduced by £100; the equivalent of a vote of censure. He accused the Government of resorting to the appointment of the investigators as a delaying tactic. "Was the decision", he asked, "merely a sop to the Prime Minister to keep him quiet for the time being or was it merely to get over the strong public feeling prevailing at that time with no real intention to do anything."[49] Harold Macmillan, speaking for Northern Members and as an exponent of the "middle way" propounded by the Young Conservatives attacked, "the general consensus in government that the problem would solve itself."[50] "The consideration of any policy, other than a palliative or short term policy must involve ... consideration of foreign trade, foreign lending, the relations between finance and industry, the organisation of industry itself, the recruitment of labour and its relationship with our educational system, the control of industry, geographical control if you like, and the whole problem of local government in these areas and the remaining question of differential rates."[51]

The speech of the Minister of Labour in reply to the motion has already been analysed.[52] Floundering in a sea of definitional arguments,

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48 Hansard 5th Sers. H.C. Debs. vol. 292. col. 425, 17 July 1934.

49 ibid., col. 1784, 25 July 1934.

50 ibid., col. 1805.

51 ibid., col. 1809.

52 supra.,

ill-digested historical evidence and illogicality, he denied his opponents description of the areas as derelict and reaffirmed his belief that the problem was a temporary consequence of the normal workings of the economic process and would accordingly solve itself. It therefore followed, moreover, that intervention on the part of the Government in that process would be both senseless and futile. The responsibility of the Government was not to specific areas or specific industries but to the populations of those areas. That obligation had been discharged through the establishment of the conditions precedent to a trade revival. Nor ought critics of the Government need reminding of the failure of the Opposition to do anything to solve the problem when they had held office. The Opposition amendment was defeated by 330 votes to 57.

The investigators' reports had been received by the beginning of August and they were referred by the Cabinet to an inter-departmental committee under the chairmanship of Sir Horace Wilson, Chief Industrial Advisor to the Government.[53] The Committee's report, in contrast to the rambling misconceptions of Oliver Stanley, was incisive in its analysis of the problem. The underlying perspective was nevertheless the same. Each area, the report stated was dependent upon the basic industries. It therefore follows, "that any real

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53 P.R.O. Cab. 23 32(34) 10 25 Sept. 1934. Sir Horace Wilson was former Permanent Secretary to the Ministry of Labour until his appointment as Chief Industrial Advisor in 1930, a post he retained until his appointment as Permanent Secretary to the Treasury in 1939. The relationship between Wilson and Chamberlain was very close and the cause of much resentment. See further, Daalder, op.cit., pp. 75-6 and 210-11, and Mackintosh, op.cit., pp. 481.

remedy for the depression in these areas can only be found in a revival of trade generally and especially in an expansion of overseas trade." Without such a revival there could be no expansion of capacity and employment. That revival was however unlikely and the Government were committed to a reduction in the capacity of the basic industries. Therefore, "alleviation will be slow because of self-sufficiency and it is unlikely that private enterprise will choose them for the location of new industries." The future of the areas was thus depicted as one of continuing decline the political implications of which could not be ignored. "None of the policies here mentioned is new; none of them can give big results. The situation seems one that can only be dealt with - alleviated would perhaps be a more correct word - by persistent attempts to apply a number of minor remedies of diverse (and perhaps changing) character. The summary shows the extent of probable action on existing lines of policy; the Committee has recognized that what emerges is unlikely to fulfill the expectations and hopes that have been created, especially in the depressed areas themselves, by the appointment of Investigators."[54]

The Committee's report is significant since it seems to confirm our hypothesis as to the causation of the legislation in that it suggests any subsequent intervention, including legislation, will attempt to fill the gap highlighted by the Committee, between the likely economic future of the areas and the expectations of those that remained in them. Since a revival of the basic industries was unlikely all that could be offered, in the event of private enterprise

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54 P.R.O. Cab. 24/250 C.P. 220. 4 Oct. 1934.

being unwilling to locate there, was a variety of short-term palliatives. The question of intervention in the locational decisions of industry was, as expected, not considered as a remedy. On the question of subsidies it is important to note that fear of surplus capacity predominated, "unless the subsidy was subject to very stringent conditions it might easily lead to the development of surplus productive capacity and to uneconomic competition in the industries concerned."[55] Emphasis was placed exclusively on the existing policy of transference and a variety of other schemes such as land settlement which had as their implicit objective the run down of the areas concerned.

Stanley Baldwin informed the Cabinet on 3rd October that the report of the Committee was now ready and suggested the appointment of a Cabinet committee, of which he thought Neville Chamberlain should be chairman to examine the reports and make recommendations. His suggestion was approved.[56] The report of the inter-departmental committee was in fact to be definitive on the substance of the intervention that would be undertaken. In contrast the emphasis of the revived Distressed Areas Committee of the Cabinet was on the form that the agreed intervention should take. Neville Chamberlain's reaction as chairman, to the reports of the investigators is recounted in his diary. They, "contain little that is new and nothing spectacular and I felt that to stand on them would involve us in a fiasco. In this mood I received a suggestion from Fergusson that a

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55 ibid.

56 P.R.O. Cab. 23 33(34) 7. 3 Oct. 1934.

fund should be created and put at the disposal of an ad hoc body for the benefit of the areas. I at once seized on this idea and have been trying to develop it since. Everyone to whom it has been mentioned so far is attracted by it."[57] The report of the Cabinet Committee reflected this view. Existing institutions and machinery were, it was argued, inadequate. "The briefest consideration of the reports of the investigators suggests that a policy which it is possible to accept and to carry out through the machinery of Government departments is unlikely to satisfy the expectations that have been created in all quarters by the appointment of the investigators."[58] The Committee therefore went on to suggest the performance of experiments involving unorthodox measures in certain of the areas. These "might well be tried as experiments both because they are valuable in themselves and because the fact of their being tried would have an important psychological effect in persuading the persons in the Depressed Areas that the Government had their plight very much at heart."[59] Maximum psychological effect would however be lost without the creation of special machinery. "In order to make further progress some special machinery should be established having a large measure of flexibility and considerable freedom of action. Only in this way would it be possible to obtain that willingness to try experiments with the risk of failure, and of their having to be subsequently abandoned, which is necessary if experiments outside the limits of normal Departmental action are to be tried."[60]

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57 N.C. 2/23a. 17 Oct. 1934. J.D.B. Fergusson was Assistant Secretary to the Treasury and Private Secretary to the Chancellor of the Exchequer.

58 P.R.O. Cab. 24/251.227. Cabinet Committee on the Reports of the Investigators into the Depressed Areas. Interim Report. 22 Oct. 1934. para. 2.

59 ibid., para. 3.

60 ibid., para. 5.

The interim conclusion of the Committee was therefore that, "these desiderata could be met," that is, "the satisfaction of expectations" and "maximum psychological effects", by the appointment of a commissioner to take charge of all special measures in the Depressed Areas."[61] Ministerial responsibility for the actions of the commissioner should be avoided as this, "would be both embarrassing to the Government and would tend to destroy his freedom of action which is one of the principal objects of the scheme."[62]

Subsequent deliberators were entirely devoted to the public presentation of the proposals. "It is important to emphasise the experimental nature of the proposals; for unless the works to be undertaken in connection with the schemes can be differentiated on this ground from similar works in other parts of the country, the Government will be embarassed by demands for financial assistance from other areas which regard themselves as depressed. Moreover if from the beginning each individual scheme is regarded as an experiment, its abandonment later, should this become necessary, will not be embarassing either to the Government or to the Commissioner."[63] On the question of the publication of the reports of the investigators, "the general consensus of opinion on the Committee [was] that it would be less embarassing for the Government if they are now published."[64] Lieutenant-Colonel Wyndham Portal did, however, express his doubts over the political adequacy of the proposals. He had, 'a strong feeling that even if the Government accepted everything recommended in the Inspector's reports which could be looked upon with favour, they would

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61 ibid., para. 6.

62 ibid., para. 9.

63 ibid., para. 10.

64 ibid., para. 18.

still find it difficult to make their policy in this respect attractive to the House of Commons or to the Country or to the people of the Depressed Areas themselves."[65]

The interim Report of the Committee was approved by the Cabinet on 24th October. Its recommendations included the setting up of four areas for research and experiment, the appointment of a Commissioner, the announcement of the proposals to the House of Commons and the publication of the reports of the investigators.[66] The final recommendation was inplemented almost immediately. On 30th October the Prime Minister announced the setting aside of a day for debate on the depressed areas. "As a preliminary to that discussion the Government have decided after consultation with and with the consent of the investigators to publish their reports without delay."[67] Reporting the announcement the Times commented that, "the inception of those efforts and those policies is the duty of the Government."[68]

The Cabinet Committee met on the following day to discuss the implementation of the proposals. Discussion once again focussed on the expected political pressure on the Government to extend the operation of the scheme once its details became known and the stern necessity of not acceding to that pressure. It was the Committee agreed imperative to confine the areas to the limits prescribed by the investigators.[69] The discussions of the Committee

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65 ibid.

66 P.R.O. Cab. 23 36(34) 11. 24 Oct. 1934.

67 Hansard 5th Sers. H.C. Debs. vol. 293. col. 12. 30 Oct. 1934.

68 The Times, 31 Oct. 1934.

69 P.R.O. Cab. 24/251. 246: 2nd Report 6 Nov. 1934. These limits had been set down by Chamberlain in his initial instructions to the investigators. The preclusion of the extension of the areas was subsequently ensured by the decision that powers of amendment should not be taken in the legislation. P.R.O. Cab. 23 39(34) 8. 7 Nov. 1934.

had revealed no change of perspective on the part of the Government and an overriding concern with financial stringency. Neither did the measure that had emerged offer anything innovatory by way of solutions to the problem; only the institutional packaging was different. Nor was that in turn the product of administrative logic but rather of the perceived necessity of capturing the continually emphasised, 'popular imagination." Its administrative inadequacy was well summed up in Feiling's cryptic comment that, "his own experience (Neville Chamberlain's) at National Service might have suggested that individuals functioning without reference to departments, need not expect a bed of roses."[70]

The emphasis placed upon the necessity of capturing "the popular imagination" was, however, fully justified. The political pressure on the Government to solve the problem was increased by the tragic picture of suffering and waste revealed on the publication of the reports of the investigators.[71] In West Cumberland of a total insured male population of 33,800, 10,500 were registered as unemployed. Percentage unemployment ranged from 61.2 per cent in Maryport to 28.2 per cent in Harrington. Between 1921 and mid-1934 there had been a net population decrease of 9.6 per cent. J.C.C.C. Davidson had found the physical condition of the unemployed surprisingly good despite the long periods for which some of them had been unemployed. "I was informed that few of either married or single appeared to be in need of reconditioning."[72] He was, however, perturbed by the mental attitude of some of those whom he met.

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70 Feiling, op.cit., p. 232.

71 Reports of Investigators into the Industrial Conditions in Certain Depressed Areas; (1934) Cmd. 4728.

72 ibid., p. 32.

Whilst, "a body of men I saw at Kielder engaged on breaking stones sang cheerfully at their work and appeared to be happy," he found in others, "the mental attitude needs changing. Men who need the course, not on physical grounds; but as a means of improving their mental outlook, should be sent for training if possible. If persuasion fails the question of compulsion may have to be considered, though I agree with the view which I gather has been taken that compulsion is fraught with danger."[73]

In Durham and Tyneside, Captain D. Euan Wallace found over 165,000 persons unemployed. Between 1921 and 1931, 148,496 people had emigrated from Durham, although there had been a less than one per cent decrease in population between 1921 and mid 1934. The average unemployment percentage was 27.2 per cent of registered insured persons whilst in Bishop Auckland it was 50.4 per cent and in Jarrow 56.8 per cent. In the eastern part of South Wales, Lieutenant-Colonel Sir Wyndham Portal found that of a total insured population of 250,310, persons 109,869 were unemployed. In many villages such as Blaina, Bryn Mawr and Merthyr Tydfil over 75 per cent of the insured population were unemployed. Between 1921 and mid 1934 the population of the area had declined by 7.6 per cent. In the area of Scotland investigated by Sir Arthur Rose out of a total population of 800,000 there was a "permanent surplus" of 64,000 whilst over 100,000 were partly unemployed.

Further consideration of the published reports reveals the lack of any scientific basis for the choice of areas investigated in contrast to the language of the proposals of the Government which was

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73 ibid., pp. 38-9.

the language of social engineering; "these areas must be taken as experimental plots or research laboratories, in which ideas can be put quickly into operation and tried out without reference to departments."[74] Clearly the applicability of solutions devised in the chosen areas to the problem of severe localised unemployment would depend on how representative the areas were of depressed areas generally. Dennison, however, points out that, "these [areas] were by no means the whole of the depressed areas, they consisted of parts of the three regions surveyed in 1931 and part of the Cumberland Region. Indeed, it can quite readily be seen by examination of the conditions of the various areas of the country that these Special Areas were badly chosen, in that they excluded certain heavily depressed areas and included some which were less depressed than those excluded. The choice was marked by many inconsistencies."[75]

That choice had, however, originally been made by Neville Chamberlain. Its inconsistencies were comfirmed by the reports of the investigators. On West Cumberland J.C.C.C. Davidson reported that Furness had been omitted but slightly more of Cumberland included, "on the grounds of convenience."[76] For Captain D. Euan Wallace, "the primary consideration in view of the urgent nature of the problem appeared to be to reduce the field of survey to the smallest dimensions which considerations of homogeneity would permit."[77] While Sir Arthur Rose reported that, "in the outline instructions it was indicated that the Scottish Inquiry would be directed primarily to Lanarkshire."[78] Any claimed scientific basis for the proposals was

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74 Feiling op.cit., p. 232.

75 Dennison, op.cit., p. 126.

76 Cmd. 4728 p. 9.

77 ibid.,p. 70.

78 ibid., p. 195.

therefore spuricus. The response of the Government while masquerading as scientific was, at root, political. Whether it could be regarded as sufficient was, however, open to doubt. Commenting on the reports the Times reminded the Government that "at the root of all remedies are national policies and here the responsibility of the government is supreme."[79]

On 13th November Chamberlain met Percy Malcolm Stewart who agreed to become the first Commissioner for the Special Areas in England and Wales.[80] The reports of the Cabinet Committee were approved on the following day and the preparation of a draft bill ordered.[81] That afternoon, in the House of Commons, Neville Chamberlain moved the consideration of the reports of the investigators He did so in the knowledge that policy of which he was the architect had been approved and only awaited implementation. The parliamentary stages of the legislation are therefore revealed as subordinate to the autecedent formulation of policy.

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79 The Times, 8 Nov. 1934.

80 P.R.O. T 172/1827. Stewart was one of the most successful monopolists of the inter-war period. He was Life President and former Chairman of the London Brick Company Ltd., President of Associated Portland Cement Manufacturers Ltd., British Portland Cement Manufacturers Ltd., the Cement Makers Federation and the National Council of Social Services. "When he joined the brick and cement companies, he found them engaged in cut-throat competition and in the throes of depression. Under his guidance each of them became the largest producer in the world in its own field. The secret of his success was that he persuaded the makers of both bricks and cement to cooperate with their competitors and to end the rivalry between individual producers. Thus planned production and stability of prices were achieved." Dictionary of National Biography.

81 P.R.O. Cab. 23 40(34) 11.14 Nov. 1934.

He began by pointing to the recovery which he argued had come about through the action of the Government. Unfortunately, "this improvement in the national position has only served to throw into higher relief the contrast with the particular areas of which I speak, for they have not shared in the general recovery." The Government had decided to intervene because, "we could not help feeling that to ask people of these areas who are still in the shadow when others are coming into the sunshine to go on waiting for many more months ... would be to put an unreasonable strain upon their patience and endurance." The reports of the investigators while containing many valuable suggestions were in many respects unsatisfactory. "We cannot help feeling that in this case the ordinary procedure, which consists, of course, in referring each recommendation to the appropriate Government Department for examination, subjecting it to the ordinary checks - the consideration of whether it infringes old precedents or creates undesirable new ones - in fact, the application of all the necessary and proper safeguards which are usually brought into operation when considering the expenditure of public money, is a procedure which is neither appropriate nor adequate to the special conditions of these areas.

"Diseases desperate grown
By desperate measures are relieved,
Or not at all."

"Although", he reasurred the House, "in the present case we need not describe the disease as desperate it certainly is sufficiently exceptional to warrant exceptional treatment." It was, however, essential, "to convince them that these reports are not going to gather dust in some remote pigeon hole but they will be the subject of continuous executive action." The Government had accordingly decided to appoint two

commissioners, "who will devote their whole time and attention to the initiation, organisation and prosecution of schemes designed to facilitate economic development and social improvement in the four areas surveyed by the investigators. In their operation it was intended that they would not overlap but rather supplement the work of Departments and local authorities. They would however, be given, a very wide discretion. "They must not be afraid of trying experiments, even if these experiments fail ... We do not anticipate spectacular results. But we are sure that they will bring to their task the qualities of imagination, of courage and of sympathy which we regard as essential for success, and we trust that with their help the long-suffering people in the depressed areas may be able to help themselves back again to a happier and more hopeful existence."[82]

His speech focussed almost exclusively on the machinery devised for the prosecution of measures of assistance. On the origins of the problem and the measures themselves very little was said. The problem was of a temporary nature and the measures to be applied were therefore, "in our view temporary."[83] The measures were not new. They included the existing policy of transference, land settlement schemes, an amenities trust to clean up the "depressing appearances" of the areas and the development of occupational centres including subsistence schemes which if they were to be eligible for assistance must not be carried on for profit.

In the debate that followed it was clear that the reports of the investigators had in the main been well received. The failure to devise a national policy was however deplored and the suspicion voiced that the proposed commissioners would be a means of avoiding

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82 Hansard 5th Sers. H.C. Debs. vol. 293 cols. 1987-2030. 14 Nov. 1934.

83 ibid.

the argued-for responsibility of the Government. The Treasury having abandoned schemes of public works would want as little money spent as possible. Outwith the House of Commons the Chancellor's speech had only a moderate reception. Criticism focussed in particular on the sum of £2 millions that would be made available. This criticism, the Times argued, was misconceived. The Government "have adopted the spirit and purpose of the reports but not every detail. [The measures proposed] will not restore prosperity. For that there must be an industrial revival. But they will be able to strike at the roots of the mental and moral depression which are fixed on idleness and depression."[84] The Guardian was more sceptical. Within the House of Commons, "most of the Government supporters, however, take Mr. Chamberlain's view, that this is a flexible and unconventional method of tackling the problem, which may well work if the commissioners are up to their job - or, believing that there is nothing to be done about the depressed areas, they think this is a good and inexpensive way of avoiding the question."[85] The administrative machinery on the merits of which Chamberlain had laid so much stress was also the subject of criticism. The commissioners would in effect operate as the "fifth wheel of the coach," being outside Government departments they would be unable to successfully initiate or pursue measures without the prior approval of the Government. The proposals were also criticised within a section of the Conservative party as "a dangerous experiment in regional differentiation which might set up new stresses and strains in the relations between central and local government. Preferential treatment for arbitrarily defined regions would never work."[86]

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84 The Times, 15 Nov. 1934.

85 The Guardian, 15 Nov. 1934.

86 Davison, op.cit., p. 95.

On 19th November Percy Malcolm Stewart received an initial memorandum from the Ministry of Labour outlining the division of responsibilities between the commissioner and the Government. This memorandum is significant in that it offers further confirmation of the hypothesis that the intention underlying the proposal was the neutralisation of a politically expressed problem rather than its solution. On the division of responsibilities set out in the memorandum the Government retained responsibility for the implementation of the existing policy of transference, and all questions relating to the location of industry, development councils, subsidies, contracts, government factories, local government and the coal and steel industries. The commissioner's responsibilities were confined to welfare work, amenity schemes, agriculture, allotments and small holdings, none of which could have been considered as constituting a solution to the problem.[87] The attitude of the Government was therefore to continue to rely on the existing policy of transference. The proposal for the establishment of commissioners did not, in the light of the responsibilities initially allocated, constitute an alternative to that policy.

On 21st November, the Cabinet again discussed the areas and it was agreed that the draft bill should be submitted by the Minister of Labour to the Home Affairs Committee of the Cabinet.[88] In the debate on the King's Speech on the same day there was considerable criticism of the proposals. Harold Macmillan was critical of the criteria used in choosing the areas and suspicious of the Government's

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87 P.R.O. Lab. 23. 25. 19 Nov. 1934.

88 P.R.O. Cab. 23 41(34) 9. 21 Nov. 1934.

intention. Was the research and experiment really necessary or was it a substitute for a policy? "As regards the wider issues other than salvage work - the great national issues upon which the cure of unemployment really depends - research in South Wales or Durham is not necessary. A phrase once used on another subject by a great Tory Leader is as true today as it was then. Speaking of the problem of the Indian frontier, Lord Beaconsfield used this famous phrase: "The keys of India are not in Herat or Kandahar; the keys of India are in London." So it is with the problem of unemployment. The key lies, not in South Wales or Durham, but in Downing Street and Threadneedle Street."[89]

His speech revealed the extent of the division between the leaders of the Party and the advocates of planning, not only within the Conservative Party, but also within the Government itself. Quoting with approval the report of Captain D. Euan Wallace he said, "he has taken one glance at the economic problems of the country, and he has seen more in those few weeks than the Government have seen in three years. I do not know what course he will pursue. I do not know whether he will continue in the Government, whether he will have regard to whether the Government accepts his views or not, but I can promise him that, if he decides that he can no longer continue in a Government which rejects his views, he will have such a welcome and such a backing from the people of England that he will be able to lead a crusade which will overturn the Government itself."[90] Apart from the existence of a conflict within the Government there was also a fundamental conflict of perspectives within the Conservative Party itself between its leadership and the Young

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89 Macmillan, Winds of Change, pp. 297-8.

90 ibid., p. 298.

Conservatives or exponents of the 'middle way'. In the ensuing process of conflict and amendment the Government would therefore not only have to accommodate oppositional pressure but also pressure from within its own party whether as a result of material interests or a clash of perspectives. The Times, departing from its earlier position of approval, followed Macmillan's lead. His speech, it argued, showed the depth of feeling amongst backbench Conservatives. The criticisms voiced, "do show Ministers that the new British electorate will forgive anything except inactivity ... Governments like courts should not only disperse justice but should be seen to be so doing."[91]

The Home Affairs Committee of the Cabinet examined the draft bill on 23rd November[92] and agreed to authorise its immediate introduction.[93] On the same afternoon a Depressed Areas (Development and Improvement) Bill, "to provide for the initiation, organisation prosecution and assistance of measures designed to facilitate the economic development and social improvement of the depressed areas; for the appointment of Commissioners for those purposes; and for purposes connected with matters aforesaid," was presented, read for the first time and ordered to be printed.[94]

The second reading debate provided the forum for the threatened storm of criticism to break. Moving the second reading Oliver Stanley described the proposals as having been both genuinely misunderstood and wilfully misrepresented outwith the House of Commons. Opposition from both Liberal and Labour Members was threatened. The proposals were, he emphasised, additional to other Government activity, not a substitute for it.

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91 The Times, 23 Nov. 1934.

92 P.R.O. Cab. 26 17. H.A. 49. 34. 23 Nov. 1934.

93 Cab. 26. 17. H.A.C. 19(34) 1. 26 Nov. 1934.

94 Hansard 5th Sers. H.C. Debs. vol. 295. col. 56. 26 Nov. 1934.

The basic framework proposed in the Bill was straightforward. Clause 1(1) provided for the appointment of two Commissioners charged with the functions of initiating, organising, prosecuting and assisting measures designed to facilitate the economic development and social improvement of the areas specified in the first schedule. The Commissioners would be under the control of the appropriate Minister, in England the Minister of Labour, in Scotland the Secretary of State, and would be required to make suggestions to and cooperate with, Government Departments, local authorities, voluntary organisations and other bodies concerned with matters within their functions.[95]

There were, however, a number of important restrictions proposed on their activities. Clause 1(4) provided that before doing or undertaking to do anything which any other Government Department is required or authorised by any Act to do, the Commissioners would be required to obtain the consent of that Department. The Minister explained that the purpose of the restriction was to prevent any overlap between the Commissioners and the Government. Further limitations were proposed in Clause 1(5). The functions in Clause 1(1) would not include the carrying on of any undertaking for the purpose of gain, or the financial assistance of any undertaking carried on for that purpose or the financial assistance of any local authority by way of grant or loan. The Commissioners, the Minister explained were not intended to be a channel for public works. The remaining clauses of the Bill concerned financial provisions, powers in relation to the compulsory acquisition of land and supplementary provisions in relation to small holdings and allotments. Provision was also made for the transference of any of the functions of the Commissioner by

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95 Clause 1(3).

Order in Council to the Unemployment Assistance Board on the expiry of the Act on 31st March 1937.[96]

The remainder of the Minister of Labour's speech was purely political; attacking both the Opposition and Harold Macmillan. No policy of public works could be considered. The position in the United States where there over ten million unemployed should be sufficient to convince opponents of the proposals of their rectitude. There, "they have brought idle men to idle money." Beyond this statement of the prevalent orthodoxy Stanley made no further attempt to sway opponents of the measure but instead retreated to a public meditation on the problem as a forerunner of the general problem of leisure.

John Lawson, Labour M.P. for Chester-le-Street moved the Opposition amendment, "that this House regrets the failure of His Majesty's Government to recognize the urgent necessity for a national system of economic planning to meet the far-reaching industrial and social changes which are reducing employment, and creating derelict areas, and is of the opinion that the Bill which at the best can only secure a trifling amelioration of the conditions existing in the most depressed areas and is unaccompanied by any proposals for securing a substantial increase in the volume of productive employment throughout the country, falls far short of the public need."[97] The Bill was not a substitute for national policies nor did it exhaust the responsibility of the Government. "We submit that this is not a matter that can be dealt with by private persons even if you call them Commissioners."[98]

Criticism was not, however, confined to the Opposition. Little enthusiasm was expressed by any speaker for the Bill. Kingsley Griffith

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96 Clauses 7 and 8(3).

97 Hansard. 5th Sers. H.C. Debs. vol. 295. col. 1266. 3 Dec. 1934.

98 ibid., col. 1267.

could only find two splendid things about the Bill. The first was its title which he perceptively argued was significant in itself. It was, "something of great value that those objects are now regarded as a responsibility of the House and as a fit subject for legislation."[99] Secondly, equally importantly, the appointment of the Commissioners gave some prospect of continuous activity. He was not however convinced of the genuineness of the Government's intention. "If they have put forward these Commissioners as a kind of smokescreen" he would vote against the Bill.[100] Other speakers focussed on the underlying contradiction in Government policy. Major Lloyd George pointed out that the areas were dependent for their prosperity upon the export trade. Because of, "intensive competition and trade restrictions throughout the world, the export trade has dropped seriously. The Government has, however, deliberately stabalized the export trade at a lower level than previously," thus materially worsening their condition. In putting forward the Bill, "the Government were ignoring the causes of the disease."[1] Aneurin Bevan attacked the proposal as "a will o' the wisp, a phantom that we have to pursue outside this House when the discussion here will have ceased.[2] ... The Government has no alternative but to bring forward such a Bill, because to bring forward any other would be to negate its own principles."[3] Other more restrained critics characterised the Bill as a genuine, albeit inadequate attempt to deal with the problem of the areas. It was, William McKeag argued, "a slice", which was, "better than no loaf." Nevertheless he begged the Government"to scrutinise more closely the possibility of insisting that Government supplies should be manufactured in those areas."[4]

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99 ibid., col. 1277.
100 ibid., col. 1282.
1 ibid., col. 1295.
2 ibid., col. 1304.
3 ibid., col. 1313.
4 ibid., col. 1330.

Sir Godfrey Collins, Secretary of State for Scotland replied cursorily to the debate on behalf of the Government, reminding Members of the forty per cent rate relief shouldered by the Government and its establishment of the conditions precedent to a recovery of trade. The Bill received its second reading by 273 votes to 50.

Immediately after the conclusion of the debate the Government suspended the 11 o'clock rule to secure the passage of the financial resolution attached to the Bill. Opposition Members sought an adjournment on two grounds. Firstly they were angry at the Secretary of State's failure to meet any of the points raised in the debate and his failure to follow parliamentary tradition, by reading from a prepared speech. Secondly and more importantly the core of the Bill and the focal point of the representatives of the depressed areas was the question of what constituted a depressed areas. There was, however, no attempt at a definition of a depressed area, a list of 'depressed areas' being instead contained in the Financial Resolution which since the monies involved were granted by the Crown could not be amended but could only be, under Standing Order 84, approved or rejected in toto.[5] Opposition Members pointed out correctly that the device of the financial resolution was being used to legislate and to preclude debate on that legislation. Dingle Foot argued that, "it follows that a Financial Resolution of this kind makes further debate on this Bill absolutely futile. It is an effective form of gagging debate in the House of Commons."[6] Nor was the practice confined to

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5 A concise summary of the use of financial resolution procedure in the 1930's is to be found in Ivor Jennings, Parliament (1957) pp. 259-67.

6 Hansard. 5th Sers. H.C. Debs. vol. 295 col. 1729.

this particular Bill. "It is regarded as cleverness in certain backrooms in Whitehall offices to get a form of Financial Resolution that will confine the debate within the narrowest limits."[7]

Critics of the adequacy of the intervention accordingly found themselves in the insidious position of either voting against, and being seen to vote against, a measure introduced as assisting in the areas revival, or else acceding to its legislative passage. Their dilemma was summed up by Sir Archibald Sinclair; "some effort is being made and I, for my part, am not prepared to take the responsibility of opposing any measures which may inure to the benefit of the people of the depressed areas."[8] Attempts to secure the withdrawal of the resolution so that it could be amended, however failed and after vehement argument the resolution was passed by 121 votes to 30.

The debate on the second reading and the financial resolution had been disappointing for the Government. Neville Chamberlain's diary disclosed the effect of the mounting criticism. In it he deplored, "the frightfully sudden slump in the Government's stock, and the continual nagging and carping by the Young Tory intellectuals."[9] These criticisms were summarised by the Times. "The criticism which the Government are meeting does not really arise out of the appointment of Commissioners and the wide powers entrusted to them, but is due rather to the absence of a clear indication of what, in sum, is the Government's policy in relation to unemployment. Friends of the Government have asked anxiously for the framework of a larger policy - in fact for a programme. If the future does not lie with exports then

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7 ibid., col. 1744. James Maxton.

8 ibid., col. 2013.

9 Feiling op.cit., p. 239.

the distressed areas must be reconstructed to meet the demands of domestic and not foreign markets ... The exclusion of public works from the domain of the Commissioners' activities leaves the Government themselves responsible for the national policies which bear upon unemployment, not as a local or depressed area problem, but a national problem which is not divisible into geographical sections. ...Remedies for the industrial depressed will not be found in the depressed areas, but remedies for the consequences of the depression in those areas must be locally applied."[10]

The Committee stage was negotiated on 6th and 7th December, the only successful amendments being those of the Ministry of Labour to alter drafting errors. The Bill as amended was considered on 13th December, several minor amendments being made by the Government before the motion for the third reading was proposed.[11] The debate witnessed a parade of influential critics of the Bill. It was, Harold Macmillan explained, "more important than usual becuase of the restrictions on the second reading debate and financial resolution, and was well attended."[12] Lloyd George who had just launched his "New Deal" attacked the Government for their failure to formulate a national policy. "Year after year the Opposition have urged the Government to take the thing in hand and the answer given has been, you must first of all put the finances of the country right. The moment that the finances are put right, we will deal with the problem."[13] The finances had now, they had been told, been put right. Why then, had nothing been done? "We are patching and peddling in the hope of

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10 The Times 4 Dec. 1934.

11 Hansard 5th Sers. H.C. Debs. vol. 296. col. 585.

12 Winds of Change,op.cit., p. 300.

13 Hansard 5th Sers. H.C. Debs. vol. 296. col. 597.

restoring an old machine to its original scope."[14] Lord Eustace Percy criticised the approach of the Government. "But let me say to the Government as a whole that they have committed, practically and politically, an almost fatal mistake in launching this little bit of policy as if it were all they had got to propose. They have made a fatal mistake in not having thought out in advance the broad outlines of a national policy which could be afforded, as a comprehensive attempt to solve this problem."[15] Viscountess Astor spoke of, "this wretched little bill."[16] She pointed out the political implications of a failure to act. " We know that unless they get a national policy and do something on a larger scale than has ever been attempted before, we may yet have ... the Labour Party in office again. This is a prospect which causes Liberals and even our Communist friends to shiver."[17] The Bill was, Harold Macmillan, argued, a disappointment. "Parturiunt montes; nascitur ridiculuus mus ... in comparison with the problems before us this is a mouse - a nice mouse, a good little mouse, a profitable and helpful little mouse, but a ridiculous microscopic Lilliputian mouse."[18] Despite, however, the widespread and uniform criticism the Bill received its third reading by 221 votes to 56.

The Bill then negotiated its passage through the House of Lords successfully. There was only one amendment of any significance and that was the substitution of "special"for "depressed". What had originally been a problem of derelict areas had become one of distressed

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14 ibid., col. 603.

15 ibid., col. 614.

16 ibid., col. 621.

17 ibid., col. 622.

18 ibid.

areas and now finally one of special areas, "a progressive meosis of terms hardly matched by the consequent improvement in conditions."[19] It was thus the Special Areas (Development and Improvement) Act 1934 which received the Royal Assent on 21st December 1934.

(iii) Conclusion

This analysis has sought to uncover the significance of the legislative intervention through the explanation of the structural alignment underlying it and making possible a specific historical situation. Thus analysed features of the legislative process more commonly ignored are seen to be of crucial importance and the legislation is revealed, in function, as fundamentally different from that more commonly attributed to it. That function was the neutralisation of a politically expressed problem rather than its solution; the latter being precluded by both ideological and economic constraints on legislative action.

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19 L. Amery, The Unforgiving Years, p. 94.

8. CONFLICT AND AMENDMENT

Introduction

The above analysis has sought to establish the context and meaning of the first legislative intervention. In the subsequent process of conflict and amendment the legislation and its meaning emerged from the interactional sequences between the demands of the economy, the proponents of change and the actions of politicians and administrators. Its meaning was thus an emergent property of this political process; a process which had as its focus the adequacy of the initial legislative intervention.

(i) Adequacy of Legislative Intervention

One of the most important factors in the subsequent process was the actions of administrators in the implementation of the legislation It would be a fundamental misunderstanding, if on the basis of our analysis of the first legislative intervention, the sole significance to be attached to the legislation was as simply a means for the furtherance of government policy, for the legislation in its implementation assumed a meaning independent of the motives that prompted it. It should thus be seen not merely as a passive form and therefore as of no innate significance as is argued by Loasby,[1] but also as influencing both the implementation of policy and its future content through the meaning attached to it by those charged with its implementation. Recourse to legislate may thus, and in this case was to, impose important constraints on the achievement of the goals implicit in its formulation. The Act of 1934 was in many ways to become the vehicle for the promotion of the cause of the depressed areas rather than, as had been intended, the means to their political supression.

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1 Supra.,

That the Commissioner for England and Wales had interpreted his function under the Act as being the solution of the problem of the special areas, had become clear by the end of January 1935. The measures he proposed implementing went considerably beyond the responsibilities allocated to him in the memorandum of 19th November 1934[2] and included the institution of schemes of public works. His proposals were discussed at a meeting of Treasury and Ministry of Labour representatives. Their report to Neville Chamberlain clearly illustrates the extent to which the Commissioner was regarded as deviating from the intended policy. "We understand that Mr. Stewart is about to issue a press statement of his programme in the attached terms. It is by no means a bad statement and contains much that is virtuous and reasonable. What seems to have happened is that Mr. Stewart impressed by the length of time which his wiser proposals will need before they get going, and stung by Press criticism to which he is unaccustomed, is putting his faith in public works as an immediate escape from his difficulties and is very upset to find himself held up by Government Departments.

We think that if Mr. Stewart is carefully handled it should not be difficult to keep him both contented and reasonably straight. It seems very desireable that you should see him and tell him in confidence of the general budget situation so that he may see (what probably has not dawned on him at present) that there are not countless millions available out of cash reserve. He ought then to be given permission to go ahead with small schemes and be told that the Government have the whole of that matter, which interlocks with the proposals made by Lloyd George, under consideration and that they need a little time

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2 Supra.,

to decide what they can do. If the words used contain some encouragement though no commitment, it should be quite sufficient to calm Mr. Stewart for the time being."[3]

If, however, the action taken seemed sufficient to quell the fears aroused within Government over the activities of the Commissioner, those activities were by themselves insufficient to satisfy the continued demands on the Government to solve the problem. On 19th March, M.P.s from constituencies within the Special Areas, met the Chancellor of the Exchequer to impress upon him the continued financial burden of unemployment on local authorities and to ask for greater assistance in bearing it. It was by now clear that the local authorities were caught in a viscous circle of rising expenditure and a diminishing income with which to meet it. "It would seem that the destruction of the distressed areas is their distress."[4] The Times commenting on the meeting seemed at a loss as to what to suggest. Its earlier enthusiasm had vanished to be replaced by the realisation of the necessity of intervention to meet the political threat posed by the continued existence of the problem. " Are there no reserves of industrial initiation to be tapped and made to flow in these economic wildernesses? The problems of the distressed areas beset the Government on every hand. The hard core of unemployment is there; the acute difficulties of the Unemployment Assistance Board are there; the financial strain of local government is also there. And as long as the distressed areas remain a social sore they will be a political danger. The reasons for taking bold action to revive them and to dissipate their distress do not grow less as time passes, but more and more strong."[5]

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3 P.R.O. T. 172/1828. 6th Jan. 1935.

4 The Times, 20 Mar. 1935.

5 ibid.

The pressure on the Government continued in the following months. In July an inconclusive debate took place on the areas in the House of Commons. Harold Macmillan accurately summed up the attitude of the Government. "In this debate, the new Prime Minister [Stanley Baldwin] repeated all the old hopes and assurances. He was, of course, conscious of his political strength ... So he told us rather wearily, that while he realised that the need of attracting new industries to the old areas was undoubted, he had no particular ideas or positive plan to suggest. He added that he thought we must rely largely on the continuance of his policy of transfer of population. In a word, I exclaimed in reply, we we are to go to our people and say "you are now depressed - you must become derelict."[6]

The publication of Malcolm Stewart's first report added considerable weight to the case of the opponents of the Government's policy. Neville Chamberlain's reaction to it had been unfavourable. There were in it, he said, "many crudities and confusions, not least in the contradictory attitude taken to public works."[7] The Commissioner had, however, argued that the Act of 1934 was of limited potential in that he did not regard it as providing any fundamental remedy to the problem.[8] There were in particular four fundamental limitations on the activities of the Commissioners. First he was subordinate to the Minister of Labour and had accordingly to seek ministerial sanction for all the main lines of his policy. The Minister was in turn responsible to Parliament for the manner in which funds voted were expended and the Permanent Secretary to the

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6 Macmillan, Winds of Change, p. 302.

7 Cab. 27. 578.. 15 June 1935.

8 First Report of the Commissioner for the Special Areas in England and Wales: July 1935. Cmd. 4957. p. 149.

Department, as accounting officer had to answer for the Commissioner to the Public Accounts Committee. The Commissioner was therefore as much subject to financial scrutiny and control as any Government Department. Even if this framework did not restrict his freedom and initiative in making proposals, it did hamper his power to implement them.

Secondly he was not directly charged with the duty of relieving unemployment by the provision of work in the areas. That was left to private initiative. He was solely concerned with proposals to facilitate the economic development or social improvement of these areas and any proposal for a scheme of public utility had to be looked at, not from the point of view of the immediate employment it would give, but rather the extent to which the work, when completed would lead to the economic development of the area. Relief schemes designed solely to give employment could not therefore be entertained.

Thirdly, with the exception of small holdings, the Commissioners were not empowered to supplement a specific grant made or offered by a Government Department. Thus if the Ministry of Transport offered a local authority a sixty per cent grant for a new road and the local authority was unable to afford the remaining forty per cent then the Commissioner could not supplement the Ministry of Transport grant even although in his opinion it would lead to the economic development of the area.

Fourthly and finally, the Commissioners had no power to offer a grant to a local authority for any service for which a specific grant was payable by a Government Department. Thus even where a department declined to exercise a power to make a grant, the Commissioners could not on its refusal, make a grant available. The sphere of activity left open to them was accordingly severely restricted. "It will thus be seen that whether the Commissioner can assist a thoroughly desireable scheme may depend upon fortuitous circumstances."[9]

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9 ibid., p. 12.

These limitations, the Commissioner argued, precluded the solution of the problem. Its solution required the establishment of new industries in the areas. His researches had, however, revealed that firms were unwilling to locate in them. His conclusions were therefore pessimistic. "I see no prospect of any effective reduction [of unemployment] under existing conditions. The effects of the distress can be mitigated, but in respect of some districts in these areas it is beyond the power of man to turn the tide of trade whence it has ebbed; derelict areas are the waste and scars left behind. We must plumb the depths of depression before raising our eyes to hope."[10] Harold Macmillan commented that his tale was a sorry one, "it was clear that he had found himself strangled with red tape, and circumscribed at every point by the Ministry of Labour."[11]

Two specific proposals were made by Malcolm Stewart on the basis of his initial experiences in dealing with the problem. On 26th July he recommended the establishment of a special fund to finance enterprise willing to set up in the Special Areas. "I realised that this recommendation would not be easy of acceptance and would require careful consideration. I am of the opinion that Government funds should not generally be used to finance private enterprise, and I hoped that the necessary fund would be put up by financial interests in the City. However, if private financial interests are not prepared to find the necessary money without Government guarantee, I should regard the giving of such guarantee as one of those "unorthodox measures" essential to the Special Areas if they are to be given opportunities for effective recovery."[12]

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10 ibid., p. 71.

11 Macmillan, Winds of Change, p. 302.

12 Cmd. 5090, pp. 16-17.

The Minister of Labour reacted by accusing the Commissioner of acting ultra vires and demanding the evidence upon which his proposal was based "The Government are entitled to ask the Commissioner for the data upon which he himself has made his proposals if these proposals are wider than the Special Areas basis."[13]

Reaction to the attitude taken by the Minister of Labour was unfavourable. Two days previously Captain D. Euan Wallace had broken his "responsibility of silence" in a speech in which he had expressed the hope that the Government was not complacent about the sufficiency of the measures it had taken.[14] The Times commented that, "members of the Government, Captain Wallace, for example, than whom no one has a right to speak on the subject, clearly realize that last week's debate on the distressed areas was not an unqualified success, and that their supporters, "are determined that a remedy for this tragic state of affairs should be sought in every direction." Certainly the time has come for more action and less inquiry. Measures so far applied are not in themselves fundamental remedies. They are palliatives ... [the Minister of Labour's statement] really bears the appearance of a sidetracking of responsibilities. It is upon the Government that the responsibility rests, and when they reject the plans proposed by others, they are under the greater obligation to pursue their own with all the powers they possess ... A Government policy for the location of industry and for the retrieving of the derelict areas, becomes more and more pressing."[15]

The Commissioner's proposal for the establishment of a special fund was followed by a recommendation in August that trading estates be set up

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13 The Times, 29 July 1935.

14 The Times, 27 July 1935.

15 The Times, 29 July, 1934.

in the areas. "The needs of the areas are however such that I came to the conclusion that it was justifiable in the circumstances to recommend the adoption of the novel and unorthodox proposal of establishing trading estates financed out of Exchequer funds."[16]

Discussion of the problem of the Areas was increasingly dominated by the imminence of a General Election. Neville Chamberlain had already formulated his plan for dealing with the issue. "S.B. assumes election will turn on unemployment - we shall in fact have, I hope, in the autumn a number of plans which will help in this direction (providing employment in the areas.) But I am convinced that though these schemes may be very well for a debate in the House when we come back we can never win an election upon them. What we want is some issue that will put them in the background and if possible substitute for the hope of the fresh benefits a fear in the public mind, - always the strongest motive to induce people to vote - [a programme of defence] - would do more than anything else would for the distressed areas, as a couple of warships on the Tyne or Clyde would make all the difference in the world. On this plan our weak point (unemployment) would recede into the background and we should make all our play with the two "bogeys", Stafford Cripps at home and Hitler abroad."[17]

Chamberlain's assessment of the weakness of the parliamentary opposition was undoubtedly correct. The influence of the Labour Party, although the existence of the problem "so filled the vision of the Labour Party as to blind them to all else" was to be marginal throughout and easily containable.[18] The problem was not one of lack of commitment but,

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16 Cmd. 5090. p. 13. The implementation of this proposal has already been examined. supra.,

17 N.C. 2/23a. 2nd Aug. 1935.

18 Feiling, op.cit., p. 286.

as previously analysed, one of an inability to formulate alternatives. "There was a too general acceptance by those on whom the unemployed depended for effective representation, of the policies and attitudes which precluded measures for substantially reducing unemployment."[19] Nowhere were the difficulties facing the Labour movement made more evident than when at the Trades Union Congress in September 1935, two months before the General Election, Ernest Bevin offered to take the issue out of politics in return for a commitment to spend £20 millions in the areas.[20] Milibands comment that, "nor it may be would the Government have found it so easy to do so little for the depressed areas had the Labour Party and the T.U.C. applied greater pressure upon it," therefore ignores the extent to which the pressure applicable by them was hampered by the absence of any consensus between them on which policies should be pursued.[21]

The expression of concern was not however only confined to the Labour Party and the T.U.C. A shift in attitude was also detectable on the part of business. A meeting of the Association of British Chambers of Commerce expressed its belief that, "the conditions revealed in the reports might have grave results for trade and industry if allowed to continue. On the other hand, they might be turned to the benefit of trade

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19 Hancock, op.cit., p. 328.

20 Alan Bullock, The Life and Times of Ernest Bevin. vol. 1.Trade Union Leader, 1881-1940 (1960) pp. 542-3.

21 R. Miliband, Parliamentary Socialism (1961) p. 216. The opportunity offered to politically exploit the revealed division between the T.U.C. and the Labour Party and at the same time to remove the thorn of Lloyd George's New Deal was not missed by the Treasury. If negotiations were entered into, "The steam would be taken out of Lloyd George's propoganda" and "the Labour Party's guns would be spiked. Either they would have to refrain from attacking the Government on this subject or the cleavage in the party would be exposed." P.R.O. T. 172/1827 4 Sept. 1935.

and industry and of the unfortunate victims of those conditions if properly handled." An executive resolution pressing for extension of the Special Areas Act "with a view to assisting authorities in Special Areas and short circuiting delay in Government departments," was passed.[22] At the Conservative Party Annual Conference on 3rd October a resolution urging that, "particular attention should be directed to the Special Areas," was passed unanimously.[23]

In an election speech in Glasgow on 14th October, Neville Chamberlain was, however, as unflinching as ever in the prospect he held out for the Special Areas. The Government, he admitted, "had not yet solved the problem of the Special Areas. Given time, in a few years, we should be able to put it behind us."[24] On the following day the North East Development Board came out in favour of the Commissioner's proposals, recommending the establishment of trading estates, the setting up of a special financial organisation for assisting the development of new industries, the lightening of the cost of public assistance and the placement of government orders in the areas. The Times argued that there was now agreement on the problem and the policies, "all that we are waiting for is the Government ... Once again, the matter is brought urgently to the foreground."[25] Neville Chamberlain, however, regarded the issue as of now subsidiary importance. "The issue has been turned from our weakest point, unemployment and distressed areas."[26]

The Report of Horace Wilson's inter-departmental committee, which had been reestablished to examine the Commissioners' Reports,[27] revealed

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22 The Times. 27 Sept. 1935.

23 The Times. 4 Oct. 1935.

24 The Times. 15 Oct. 1935.

25 The Times. 16 Oct. 1936.

26 N.C. 2/23a. 19 Oct. 1935.

27 P.R.O. Cab. 27. 578. 15 June, 1935.

the extent to which thinking and policy remained unchanged, despite the pressure that had been applied. Transference, the Committee argued remained the only real solution. "If the coal trade cannot give employment locally and other industries with a comparable range of employment can find no reason why they should settle themselves round derelict pit shafts the people who wish to work must go where the work is." The role of the Government remained the same. "It seems equally clear that the really effective contribution by Government is the creation of and maintenance of improvement in the position of the country as a whole. This requires to be re-stated as a preface to anything indicating further action in connection with the Special Areas, for it both describes the foundation of the Government's employment policy (restoration of general business confidence, cheap money, fiscal policy etc.) and indicates the limits to which further action can go, namely, that nothing must be done to shake confidence or check business development - for unless the country as a whole is in good trim the plight of the Special Areas will indeed be bad." The proposals for a special fund were objectionable. "Money is so cheap that there is every inducement to capital to look for investment offering possibilities of appreciation and of larger return." They were moreover discriminating and would lead to the financing of unsound business. Since, however, the matter was still one of controversy it was, "perhaps worth reconsidering."[28] Neville Chamberlain's accompanying memorandum revealed that his views had not changed either. "Speaking generally we doubt the feasibility of trying to persuade ordinary industry to go into the Special Areas." Politically,

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28 P.R.O. Cab. 27 577. Committee on the Reports of the Investigators into the Depressed Areas. Vol. 1 Appendix: Report of Inter-departmental Committee 27 Sept. 1935.

however, "the impression must be created and fostered that the various activities and schemes are having a rapidly increasing and cumulative effect in view of the general election coming up."[29]

Although the deliberations of the Government had revealed no fundamental change of attitude Malcolm Stewart's proposals had yielded some return. The question of the establishment of a special fund remained open and the Treasury had conceded the issue of the setting up of trading estates[30] and his proposal was incorporated in the National Government's election manifesto.[31] The result of the election held on 14th November was as expected. The National Government was returned, albeit with a reduced majority, the Labour Party tripling its representation to 154 seats. The reduction of Liberal representation to 21 seats, however, effectively removed Lloyd George's potential influence.

The initial feeling of euphoria induced by the result[32] was however rapidly dissipated by the publication of the Commissioners' second reports in February 1936.[33] The Times commented that, "The Commissioners projects are very good so far as they go. To make them go far enough and fast enough they require the backing and driving force which a resolute Government alone can supply."[34] In reply to an Opposition motion of censure Ramsay Macdonald as Lord President of the Council rejected Opposition demands for state intervention in the location of industry and stated that the Government were committed to the retention of existing industry and the attraction of new industries through the provision of infrastructure including trading estates, in the areas. Moreover the

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29 ibid., paras. 9-10. 18 Oct. 1935.

30 supra.,

31 The Times, 28 Oct. 1935.

32 See for example The Times 25 Nov. 1935.

33 Cmd. 5090 and for Scotland, Cmd. 5089.

34 The Times, 14 Feb. 1934.

placement of orders and the location of government factories in the areas as part of the rearmanent programme would assist their recovery. The motion of censure was defeated by 357 votes to 154.[35]

This restatement of policy is however of significance in that it represented a considerable advance on the position previously taken by the Government on the proper limits to its intervention. That progress was a direct result of the concessions secured by Malcolm Stewart and the adoption of the policy of rearmament. Its effect, however, was to introduce a contradiction between the run down of the areas implicit in the policy of transference [36] and their revival to which the new developments were directed. This contradiction was further compounded by the announcement of the acceptance of Malcolm Stewart's first recommendation, for the establishment of a special fund, in the April Budget. Its acceptance did not however lead to recognition of the contradiction and the abandonment of the policy of transference or presage a shift in legislative intention.

The decision to accept the recommendation had once again originated with Neville Chamberlain. In his speech he spoke of the suggestions that have been made, "that the development or establishment of small businesses was being hampered for the lack of finance." It was, he said, difficult to decide why this should be so. "Is it due to backwardness on the part of financial interests or are the risks greater than would be accepted in the ordinary sense of business? Where there is such a conflict of opinion it seems desireable to experiment." Accordingly a company, to be called the Special Areas Reconstruction Association Limited, with a nominal capital of £1 million and with the task of financing small

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35 Hansard 5th Sers. H.C. Debs. vol. 309. cols. 1023-1144. 2 Mar.1936.

36 Transference reached a post-depression peak of 43,506 in 1936.

businesses in the Special Areas, would be formed. Since it was experimental it would only be set up for a ten year period. Advances would be limited to £10,000 in the case of any one loan. No capital was to be subscribed by the Government but assistance would be provided in the form of a contribution towards management expenses and a guarantee against losses amounting to 25 per cent of the total loans issued.[37]

The Special Areas Reconstruction (Agreements) Bill received its first reading on 28th April.[38] Although the measure was generally welcomed several criticisms were voiced during the second reading debate. Those criticisms were mainly directed to the absence of any wider policy and the proposed capital structure of the capital coupled with suspicion over the role played by the City in formulating the proposals; the fear being expressed that its implementation would not involve any departure from established financial practice.[38a] Harold Macmillan described the Government as having, "chosen a capital structure which will make the ordinary shares carry an interest rate of 3 per cent and in respect of the preference shares the interest will be 3½ per cent. If the company is to be carried on and not to lose, the rate of interest for

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37 Hansard 5th Sers. H.C. Debs. vol. 311 cols. 51-2. 21 Apr. 1936.

38 ibid., col. 881.

38a The prevalent financial orthodoxy imposed severe restrictions on the activities which such a institution could carry out. It could not for example help entirely new undertakings. "The entrepreneur must have made the first start on his own account and must be able to present some record of achievement. What the finance company can do is help him to quickly traverse the road from a successful start to complete large scale success. But it cannot give him his first start." The Economist, 24 Aug. 1935.

these loans must relate to the rate at which the capital has been raised, and if the capital has been raised, as I think necessarily extravagantly, considering the present situation in the money market, it is pro tanto the rate at which the money will be re-lent to the undertakings that apply for it."[39] A penal rate of interest would therefore, be charged. Whether this was solely a result of the role played by financial interests is, however, doubtful. Certainly they had played a considerable part in the development of the measure. Neville Chamberlain's notes for the second reading debate reveal the influence of the Bank of England. Envisaging the possible criticism that the maximum loan of £10,000 was insufficient, the notes continue, "nevertheless it might appear in the course of the debate to be desirable to give a little extra latitude in this respect by agreeing to raise the maximum without Treasury consent to say £15,000. The Bank would have no objection to this."[40] It is, however, more likely that the high level of interest rates was regarded as being desireable by both financial interests and the Government as the initial reaction of the inter-departmental committee to the proposal[41] and Neville Chamberlain's observation that an amendment to fix the maximum interest rate at 3½ per cent, "would penalise credit-worthy borrowers at the expense of uncredit-worthy borrowers," confirms.[42] The Bank of England would, however, exercise a considerable degree of control over the implementation of the measure. "The initial directors will be procured by the Governor of the Bank, and the Treasury will be consulted. [The Governor would prefer his name to be left out of the question if possible]"[42a]

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39 ibid. col. 1954 7 May 1936.

40 P.R.O. T.171 330. Notes for Second Reading of SAR(A)Bill p. 9 7 May 1936.

41 supra.,

42 P.R.O. T. 171 330. p. 9.

42a ibid.

The main criticism of the measure focussed on its smallness in relation to the problem. The Times commented that, "Government and Parliament do need a quickened sense of responsibility for remedial measures ... Governments of today cannot be indifferent to the social consequences of industrial planning or want of planning."[43] Apart from the criticisms of Government policy generally, the measure did not provoke serious disagreement in itself and it passed its remaining stages without amendment and received the Royal Assent on 29th May.

In July the Commissioner for the Special Areas in Scotland, Sir Arthur Rose resigned on medical grounds, Sir David Allan Hay being appointed in his place. Sir Arthur Rose's final report[44] raised once again the adequacy of the Act of 1934 and the limitations that had been placed on the Commissioners. "In my previous reports I have refrained from expressing any general conclusion but I now feel it is incumbent upon me to refer briefly to some of the difficulties which have been encountered ." He argued that there was an apparent contradiction between the public pronouncements of the proponents of the legislation and their subsequent attitudes to his activities. "To judge by discussions in Parliament, it would appear to have been the intention to confer upon the Commissioners very exceptional powers to enable them to carry out their functions with unusual speed and unhampered by many of the limitations and restrictions imposed by normal considerations of public policy upon the permanent Departments. The machinery of ordinary public administration, however, is so comprehensive that I frequently found, in putting forward proposals for general approval, that important questions of public policy, within the province of numerous Departments, were involved, and that

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43 The Times, 8 May 1936.

44 Cmd. 5248, July 1936.

these questions had to be considered before consent could be granted to my operations ... I do not think it will be regarded as unfriendly criticism if I express the view that, in considering my initial proposals, they have tended on occasions, like so many others, to lose sight of the exploratory features of my work and perhaps with some justification to harbour the fear that, in promoting a particular experiment, I was initiating a new policy or change of policy before its full implications and results could be foreseen."[45]

Criticism of the Act of 1934 was followed almost immediately by criticism of the activities of the Special Areas Reconstruction Association. In an article in the Times, the deputy leader of the Labour Party, Arthur Greenwood argued that the Association regarded itself as a bank, "which will wait for people to come to it, rather than as an active organism whose purpose is to go out and stimulate enterprise."[46] The main impetus for change did not, however, stem from the Labour Party but rather from within the Conservative Party and in particular from the Special Areas Group of M.P.'s as representative of regional interests and the Young Conservatives as exponents of the "middle way". At the Conservative Party Annual Conference on 2nd October a motion calling upon the Government to intensify its efforts to establish industries in the Special Areas was carried. The motion did not meet with a favourable reception from the leadership of the Party who sought to deny Government responsibility. Lieutenant-Colonel Muirhead, Parliamentary Secretary to the Ministry of Labour, stated that the Government, "could not provide money for industries in the Special Areas to compete with industries outside." Industry he claimed had started going back to the areas. The

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45 ibid., pp. 4-5.

46 The Times, 11 Aug. 1936.

Conference would be better served if this was pointed out, "rather than if they tried to create an atmosphere that those areas could only recover with Government assistance."[47] Pressure came not only from within the Party but, in addition, from within the Government itself. At a Cabinet meeting on 14th November the Minister of Health, Sir Kingsley Wood sought further special measures for the areas.[48]

This upsurge in pressure coincided with the Jarrow March. The Times commenting on the March pointed out the contradiction in the policy of the Government, "the transfer of the young and fit and the establishment of trading estates are to a certain extent rival policies." In the absence of any indication of new policies, "the Jarrow March may be a wholesome if poignant reminder of the responsibility of the flourishing communities to those that have fallen into such an evil case."[49]

The response of the Government was, however, restricted to the inclusion of the Special Areas (Development and Improvement) Act 1934 in the Expring Laws Continuance Bill.[50] Members of Parliament were not slow to note that this method of extending the period of operation of the Act of 1934 effectively precluded its amendment.[51] The case of the opponents of the Government's policy was, however, further strengthened by the publication of Malcolm Stewart's final report.[52] In his report Stewart argued that most of the measures possible under the Act had now been initiated. Their impact on the problem had, however, proved

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47 The Times, 3 Oct. 1936.

48 P.R.O. Cab. 23. 57 (36) 21. 14 Oct. 1936.

49 The Times, 27 Oct. 1936.

50 P.R.O. Cab 26 20/2 H.A. 26(56) 21 Oct. 1936.

51 Hansard 5th Sers. H.C. Debs. vol. 317. cols. 45-7. 3 Nov. 1936.

52 Cmd. 5303. Stewart had resigned for personal reasons on 9th October. He was replaced by Sir George Gillet former National Labour M.P. for Finsbury.

disappointing. "There is evidence that the work done and the measures initiated are proving helpful to the areas and that their benefits will in many cases be increasingly felt. Nevertheless it has to be admitted that no appreciable reduction of unemployment has been effected. This, however, was not to be looked for seeing that the Special Areas Act makes no direct provision for this purpose."[53]

Despite the general agreement over the inadequacy of the Government's policy, Neville Chamberlain's attitude to the problem did not change. Feiling wrote that, "this ulcer of localised but mass unemployment, ate into the body politic, stabbed the national conscience [and] roused rebellion in Young Unionists. [Although] he foresaw some palliatives ... we hear in November that, "when all is said and done there must remain a large number of people for whom we can find no work in South Wales, and who must either move or stagnate there for the rest of their lives."[54] Although his underlying perspective had not changed he was aware of the political inadequacy of the Government's policy. On 14th November he received a report from Horace Wilson's inter-departmental committee on the proposals that had been made by the Commissioners, recommending continued reliance on the existing policy of transference. Chamberlain wrote in reply that whilst it was possible to criticise all the proposals, "politically speaking this is not a wholly satisfactory method as it leaves things as before. On the other hand the Commissioner has made certain proposals and politically it might be helpful to say, "These are frankly unorthodox and uneconomic but we are ready to try them in those areas." If they failed as I think they would we should have done little harm, but we should have met the reproach that we neither accept

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53 ibid., p. 4.

54 Feiling, op.cit., p. 286.

the Commissioners suggestions nor produce any of our own - providing there is no danger O.K."[55] The significant change of policy usually associated with the Act of 1937,of which this marked the inception, is thus revealed as a gesture made on political grounds with no faith in its potential as a solution to the problem.

On 16th November a Special Areas Group was formed at a meeting of between thirty and forty supporters of the National Government. Lord Wolmer was chairman of the group and its membership included Harold Macmillan and Eustace Percy. It had been formed Macmillan explained, because of the acute feeling aroused by the delimitation of the areas eligible for assistance in the Act of 1934.[56] At its inaugural meeting the group sent a deputation to the Chief Whip, Captain Margesson protesting at the decision to continue the Act of 1934 through the Expiring Laws Continuance Bill.[57]

The clash between the Government and its supporters came to a head on the second reading debate of the Expiring Laws Continuance Bill on 17th November. A call for a motion of adjournment because of the refusal of the Government to reveal its plans prompted Neville Chamberlain's intervention. Having emphasised the extent to which the defence programme and the proposed trading estates could be expected to lead to an improvement in the position of the areas, he turned to the recommendations that had been made by Malcolm Stewart in his final report. His proposal that further development in the Greater London area be limited, he pointed out would not by itself lead to an expansion of industries in the Special

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55 P.R.O. T. 172/1828 14 Nov. 1936.

56 Macmillan, Winds of Change, pp. 496-8.

57 The Times, 17 Nov. 1936.

Areas. "It is not difficult to see that even if new factories are excluded from the Greater London area, it does not follow that an industry which is proposing to go to the Greater London area will, if it is excluded from it, at once go off to South Wales. I should think it would be much more likely to go to Birmingham."[58] By contrast with regard to the proposals for inducements he declared in the terms that he had outlined to Horace Wilson his willingness, "to be unorthodox in regard to the Special Areas."[59] Although he would resist their extension to the whole country he would accept them in principle in relation to the Special Areas, "and if say in principle it is only because I should like to have a little more time to see whether the exact form in which he [the Commissioner] has put his proposal is the one best calculated to affect the purpose which he has in view."[60] He then gave a commitment to introduce new legislation; "because of the proposals it follows therefore, that if this Act is to be put into the Expiring Laws Continuance Bill, it must be followed by an amending bill to give the further powers to the Commissioner which will be necessary to implement any of the proposals which we may accept ... I am putting that to the House as the intention of the Government."[61]

Despite the commitment which had been forced from Chamberlain to amend the Act of 1934 against a background of growing dissent within his own party, supporters of the Government were highly critical of its policy in the subsequent debate. Viscount Wolmer, Chairman of the Special Areas Group spoke of, "the tragedy which has been brought home to the whole House by the fact that, whereas the Government's policy has

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58 Hansard 5th Sers. H.C. Debs. vol. 317 col. 1592. 17 Nov. 1936.

59 ibid., col. 1596.

60 ibid.

61 ibid., col. 1597.

undoubtedly contributed to the general revival of trade and industry that has been taking place throughout the country, when the flood of unemployment which deluged England in 1931 began to recede, we find the depressed areas worse off then they were in 1931. We are faced with a new problem in our political experience; [a] problem which we are justified in describing as the dominant political question of the day. It is a problem which public opinion will insist on being tackled."[62] Harold Macmillan described the Government as having fought a continuous rearguard action over the distressed areas during the two years since the first Act had been passed. That Act had been stated to be experimental therefore, "I ask with perfect sincerity, why should the Government introduce this measure [the Act of 1934] under the Expiring Laws Continuance Act, try to slide off with getting if through that way, and then, under the pressure of opinion of this House, say, "We will have an amending bill sooner or later?" It is an amending Bill which they did not think it necessary even to mention in their great category of measures, [in the King's Speech] although if it is to be a real Bill it will be a measure of major importance, a first-class Bill."[63] Despite these criticisms the motion of adjournment was defeated by 155 votes to 86 and the Bill was read a second time.

The episode was, however, of significance in that from a position in which it had not intended to introduce any new measures, the Government had been forced on political grounds into acceptance of the need for amending legislation and a policy of inducements. This development was a product of the demands placed upon the Government by the proponents

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62 ibid., col. 1633.

63 ibid., col. 1661.

of legislative change whose case had been assisted by the focal point provided by the Act of 1934 and the activities of those charged with its implementation. Although the commitment entered into by Neville Chamberlain did not presage a shift in legislation intention, the form of intervention to which commitment was made was in itself significant and could be expected to outlast its application in relation to the Special Areas. Moreover in its application the legislation would take on a purpose different from that of the legislators. Neville Chamberlain's intention as we have seen was primarily political, the commitment having been made in the belief that it would not solve the problem but would nevertheless meet the criticism of the Government. The commitment of the Commissioners was however to the solution of the problem of the areas, for which purpose the powers granted would be used. Finally the commitment marked the overall reconceptualisation of the problem as one of industrial location and hence of new industries, a reconceptualisation in which Neville Chamberlain by his actions if not his beliefs had concurred. It would accordingly be less easy thereafter to deny the validity of the conceptualisation of the problem held by opponents of the Government's policy.

(ii) The Fourth Phase; a Problem of the Location of Industry

The early months of 1937 were taken up with the implementation of the commitment given by Neville Chamberlain in November 1936. "But neither he nor any other man could shake off the special areas whose unemployment still stood at twice the rate of the country at large. On this he had pledges to redeem, which he had given under pressure from his own party."[64]

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64 Feiling, op.cit., p. 291.

Its implementation took place against a background of considerable criticism mixed with some suspicion of the Government's intention. On 7th January the North East Development Board criticised the "excess of caution" with which the Special Areas Reconstruction Association was working. It was, the Board said, doing no more than any other financial institution would do.[65] The Times described the Government's actions as having been marked with great caution. "The demands of public opinion have been followed, not led. Sympathetic charity, without much conviction of remedial possibilities has been the characteristic note of Government's help, and the responsibility for the shaping and the execution of plans has been transferred as much as possible to others. The incompleteness of schemes of revival framed by executive officers with restricted powers has been evident at every point, and the final words of the Commissioner for England and Wales, who shouldered the task for the first two years, were to tell the country as well as the Government that, unless the powers of the officers were enlarged and the policy of the Government changed in essential particulars, the limit of effectiveness of the Commissioner's works had been reached". The Commissioner had recommended not only inducements but also controls on industrial development in the Greater London area. Although the Government had accepted the case for the former it showed no signs of acting on the latter. Both, however, were necessary.[66]

The Bill itself was meanwhile in preparation. In the discussions preceding its introduction it emerged that the Treasury was against any material extension of the areas principally on financial grounds, although

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65 The Times, 8 Jan. 1937.

66 ibid.

new measures would be applicable outwith the Special Areas as defined in the Act of 1934. Forseeing criticism of this failure to amend the list of areas, the Minister of Labour suggested the inclusion of a "camouflage amendment." "It is I think important for political reasons to have some amendment of the Act to which Ministers can point as giving good reason for continuing to exclude Cardiff etc. from the special areas - a camouflage amendment?"[67] It is, however clear, that industrial interests in depressed areas outside the special areas were opposed to the extension of the list of areas to include them. They regarded the application of the label "special" to them as essentially inimical to their interests. Sir Horace Wilson pointed out that it had emerged in discussion with Sir Joseph Nall that "there was a very general feeling against being labelled a "Special Area".[68]

Although industrial interests in depressed areas were therefore against their inclusion within the Special Areas they were not opposed to the provision of State inducements in their areas. Industry outwith the depressed areas was, however, against the acceptance of the principle, principally on the grounds of unfair competition and the perceived danger of the emergence of further surplus capacity. Once the principle had been accepted by Neville Chamberlain considerable pressure was placed on the Board of Trade to ensure that assistance would not be given to either new

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67 P.R.O. Lab 23/31. 22 Dec. 1936. Malcolm Stewart had criticised the exclusion of the principal cities in the depressed areas from the list of special areas as creating an artificial boundary within an established industrial region.

68 P.R.O. Cab. 24. 268 C.P. 57 (37) 5 Feb. 1937.

or existing firms which might adversely affect unassisted concerns. A resolution demanding that the Treasury and the Commissioners take into account, "the relation between productive capacity already existing in this country for goods which the new undertakings propose to manufacture, and the size of the market for these goods which is available or is likely to become available to British Manufacturers" was passed by the Grand Council of the Federation of British Industries on 10th March.[69]

The administration of the new measures was dealt with by Neville Chamberlain. "The inability of the Commissioners to operate outside the Special Areas, the desireability of securing uniformity of administration over the whole field and the need for the closest cooperation in the Special Areas with the Nuffield Trust [70] and the Special Areas Reconstruction Association all lead to the conclusion that the administration of the new scheme should be in the hands of Lord Portal and Sir Nigel Campbell. It would however be politically impossible to hand over a large sum of money without Parliamentary control and, after considering a number of alternatives, I propose that the actual administration should be in the hands of the Treasury, acting on the advice of a Committee which would consist of those gentlemen and possibly a third."[71]

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69 P.R.O. T. 172/1828 8 Mar. 1937.

70 On 22nd December 1936 Lord Nuffield had given £2 millions for the assistance of the areas.

71 P.R.O. Cab. 24 268 C.P. 57 (37) para. 12 5 Feb. 1937. Nigel Cambell had been nominated as a Nuffield Trustee by the Governor of the Bank of England. Thomas Jones, op.cit., p. 299. Wyndham Portal had been one of the initial investigators appointed in 1934. The device of the independent committee had been used by Chamberlain before; the most noteable example being the Import Duties Advisory Committee. supra.,

His recommendations were accepted by the Cabinet on 17th February and the preparation of a Bill ordered.[72]

The Government unveiled its revised policy in the form of a White Paper.[73] The White Paper stated that powers were to be taken to extend the period of operation of the Act of 1934 by a further two years until 31st March 1939, to enable the Commissioners to let factories to undertakings carried on for gain, to grant them financial assistance and to enable the setting up of site companies to provide factories for undertakings. Apart from the power to assist undertakings financially, which was later extended by the Finance Act 1937 to include the remission of a firm's National Defence Contribution, the Act contained little that was new but rather consolidated earlier developments such as Malcolm Stewart's secural of the establishment of trading estates. In so far as there was little that was "new" in the "new" policy its appearance beguiled its reality. As Chamberlain himself admitted, "the Bill looks pretty thin."[74] Reaction to the White Paper was not entirely favourable; it was the Times, said, "a little curious."[75]

The introduction of the Bill was preceded by a long and vitriolic procedural debate on the Financial Resolution to the Bill which opponents of the Government's policy argued was being used as in 1934 as a legislative device and as a means of blocking debate and amendment.[76] An attempt to have Standing Order 69 which precluded amendment of matters contained in the Financial Resolution revoked was defeated. On the Committee stage of the Resolution all of the twenty amendments on the Order Paper were, as Members

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72 P.R.O. Cab. 23 8(37) 6. 17 Feb. 1937.

73 1937 Cmd. 5386.

74 Feiling, op.cit., p. 291.

75 The Times, 3 Mar. 1937.

76 Hansard 5th Sers. H.C. Debs. vol. 321 col. 815 - 8 Mar. 1937.

had feared, held out of order. Their feelings were summed up by Mr. Garro Jones who said, "the House quite clearly finds itself in a perfectly ridiculous position, because although these points may be discussed, discussion without amendment, is absolutely futile."[77]

The purpose of the Financial Resolution, Ernest Brown explained amidst constant interruptions and cries of "take it away", was two-fold. Firstly to meet the urgent demand for the introduction of new industries in the areas and secondly to determine a means for the provision of aid to areas outwith the Special Areas without assessing the help needed by them and without antagonising established industry. "Although there are differences of opinion about the policy pursued by the Commissioners, there is general agreement as to the desireability of establishing new industries, with one exception, and that exception is this; that complaints are already being received about the possibility of unfair competition by industries established in the special areas, with government aid under preferred conditions with industries established elsewhere under normal economic conditions." Although there was a favourable reaction at the moment, "yet if we were to spread this assistance too widely the favourable atmosphere in industry would change."[78] Uniformity of administration would therefore be secured by the appointment of a committee to advise the Treasury composed of Lord Portal, Sir Nigel Campbell and Sir Frederick Marquis, later Lord Woolton, who was one of the Commissioner's industrial advisers.

Ernest Brown also announced the intention of the Government to appoint a Royal Commission on the Location of Industry. Although a Royal Commissioner was as Hugh Dalton pointed out, "a well known device for postponing decisions,"[79] the significance of the decision did not lie

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77 ibid., col. 1002. 9 Mar. 1937.

78 ibid., cols. 1019-21.

79 ibid., col. 1031.

solely in the fact that recourse was had to a Royal Commission because of the growing split between the Commissioner and the Board of Trade over the question of restrictions on the establishment of new industries in the Greater London Area and the growing fears of the consequences of strategic bombing; for the decision also marked the important aspect of the reconceptualisation of the problem as one of industrial location, its consideration in terms of land use planning in addition to unemployment.

Reaction to the measures announced by Ernest Brown was hostile. Miss Lloyd George argued that the measures were simply an attempt to appease backbench Conservative dissent. They were, "really a sop thrown out to quieten public clamour and the Noble Lord the Member for Aldershot [Viscount Wolmer] and his friends."[80] Viscount Wolmer attacked the measures as inadequate. They only covered four or five of the recommendations made by Malcolm Stewart. It was a mark of the strength of the criticism that, on an Opposition motion for the appointment of a Cabinet Minister to take responsibility for policy in relation to the areas, the Government's victory margin was the narrowest there had been; the motion having been defeated by 233 votes to 214. The Financial Resolution was, however, agreed to without division and the Bill was presented and read for the first time.[81]

The Second Reading of the Special Areas (Amendment) Bill was moved by the Under-Secretary of State for Scotland. Government policy was he said aimed at the introduction of new industries into the areas to provide employment and reduce their dependence on one industry. Clause 1 of the Bill provided for the continuance of the period of operation of the

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80 ibid., col. 1045.

81 ibid., col. 2532.

Act of 1934 for a further two years, until 31st March 1939. Clause 2 empowered the Commissioners to let factories in the areas at economic rents to profit-making undertakings. Clause 3 enabled the Commissioners to financially assist such undertakings through contributions towards rent, income tax or rates. This discretion as to the means of assistance had a two-fold rationale. Firstly it was intended to enable the Commissioners to minimise the possibility that similar undertakings, either in the Special Areas or elsewhere might be adversely affected. Secondly, although this was not made explicit by the Under-Secretary, it enabled the refusal of assistance where it was likely that its provision would lead to an excess of productive capacity. It was therefore implicit in the discretionary nature of the powers granted that the views of industry would be one of the factors governing their exercise.

Clause 5[82] provided means for the assistance of industrial development of areas not included in the first schedule of the Act of 1934. The Clause provided for the establishment of site companies to provide factories in designated areas. If such a company were established the Treasury was empowered to assist the company, by way of subscription to its share capital not in excess of one third of the paid up share capital or by way of loan, in accordance with the recommendations of an advisory committee. Three conditions had to be met before the Minister of Labour could designate an area one to which the section applied. Firstly he had to be satisfied upon representations being made to him that there was and had been for some considerable time severe unemployment in the area. Secondly that the immediate likelihood of a substantial increase in employment was dependent upon the provision of financial assistance to a site company which would operate in the area and finally that employment

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82 Clause 4 was of minor significance. It empowered the Commissioners to make contributions to road and drainage expenses in the Special Areas.

in the area was mainly dependent upon one or more industries which by reason of their depressed condition were unable to provide sufficient employment. Although the power to make a decision that an area was one to which the section would apply was formally that of the Minister, his power to make such a decision was dependent upon a favourable recommendation by an advisory committee to whom the Minister was obliged to refer representations.

The provision of assistance to areas outwith the scheduled Special Areas, which was one of the stated purposes of the legislation, was therefore subjected to a formidable degree of control. Treasury assistance was dependent upon representations being made to the Minister of Labour, a recommendation by his advisory committee that the area was one to which the section should apply, a decision to that effect by the Minister and finally a recommendation by the Advisory Committee to the Treasury that the company should be assisted. The key features of this apparatus of control were the two advisory committee's upon whose recommendations the exercise of the powers would effectively depend; the one "to relieve the embarassment of the Minister in making a choice," the other, "to restrain the parsimony of the Treasury."[83]

Finally, Clause 6 made further provision for provision of assistance by the Treasury. The Treasury was empowered, in accordance with the recommendations of the advisory committee, to assist by way of loan only, persons carrying on any industrial undertaking established in any special area after the passing of the Act or which became established in an area to which section 5 applied and which occupied a factory provided by a site company. A limit of £2 millions was placed upon the total amount of assistance available under the section.

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83 Hansard 5th Sers. H.C. Debs. vol. 322. col. 56. 6 Apr. 1937.

The concessions forced from the Government contained in the Bill did little to meet the criticisms of the opponents of the Government's policy. It was, Harold Macmillan pointed out, a product of dissent within the Conservative Party. "E par si muort; nevertheless it has moved. It has moved a little; it has not been shaken, it has oscillated. That oscillation takes legislative form in the Bill which is now before us."[84] Nevertheless, "the public and the House are more interested in the tremendous problems which are not dealt with in the Bill than the comparatively minor questions which form its contents."[85] The result of the second reading debate was not, however, in doubt and the Government secured its majority by 69 votes. After a marathon committee stage the Bill was reported without amendment. There was no division on the third reading debate and the Bill received the Royal Assent on 6th May.

The onset of industrial recovery and the effects of rearmament expenditure had contributed to some improvement in the position of the areas. By September the Times was taking a more sanguine view of the situation. "Already a success has been achieved which can be measured not only by the statistics of unemployment but also by the virtual disappearance of the problem of the special areas from the list of prominent political issues ... by far the greatest reason for the improvement is the speed of the general industrial recovery ... the Special Areas are in fact on the way to becoming de-specialised."[86] However in a review of the position in November it tempered its earlier optimism by pointing out the continued necessity of pursuing the policies

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84 ibid., col. 196.

85 ibid.

86 The Times, 8 Sept. 1937.

which had been adopted. "Until the menace of war returned not so long ago to overshadow all else, the needs of the Special Areas dominated, like an unclimbed mountain, politics and public opinion. The astonishing improvement of last year in coal must not light-heartedly be accepted as a solvent of all their troubles.[87]

During this period criticism of the Government was restricted to Labour M.P.'s. The publication of George Gillet's first report in November reawakened a more general concern.[88] In his report he questioned the adequacy of the present policy. In particular, he argued, the question of the location of industry could no longer be avoided by the Government. "The Government cannot, in my view, especially since the introduction of tariffs and quotas, evade all responsibility for the location of industry. In many foreign countries Governments are assuming growing control of industrial location and it seems clear that social and strategic as well as purely economic causes will drive the Government of this country also to abandon the laissez-faire attitude which was the prevailing doctrine up to a recent date."[89] The results of the implementation of the policy had also proved disappointing. Expenditure remained low in comparison with the dimensions of the problem. Treasury loans had amounted to £532,000 whilst a mere £40,000 had been expended on inducements. In addition the Nuffield Trust had assisted 43 undertakings at a cost of £1,340,000 and the Special Areas Reconstruction Association had expended £786,000. Progress on trading estates had been slow. At the largest, Team Valley, 58 concerns had contracted to occupy factories which would provide an estimated 6,000 jobs.[90] Although definite arrangements had been reached

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87 The Times, 1 Nov. 1937.

88 Report of the Commissioner for the Special Areas in England and Wales. Cmd. 5595. 1937.

89 ibid., p. 12.

90 ibid., p. 1.

in May 1936 to bring the attention of aliens wishing to establish businesses in the United Kingdom to the Special Areas, the overall results with regard to the provision of new industries were negligible. Of 551 factories established in the United Kingdom in 1936 only 8 were in the areas, while of 201 factory extensions only 3 were in the areas. The same period had witnessed the closure of 6 factories in the areas.[91]

The evidence of the Board of Trade to the Royal Commission on the Geographical Distribution of the Industrial Population gave further cause for concern. "It can", the Board stated, "probably be assumed that in general the present distribution of the industries of the country approximates very closely to the distribution which enables each of those industries to operate most economically and efficiently, and there is therefore reason to suppose that this distribution is well adapted to serve the economic interests of the country as a whole."[92] Its views as outlined to the Royal Commission showed no change from those propounded by Oliver Stanley some four years previously. The Times commented that, "it is to be hoped that the Board of Trade was speaking for itself alone, and not representing the attitude of the Government ... The evidence has been read with astonishment and uneasiness. In a mid-Victorian voice the Board propounded the policy of do-nothing which is not merely outmoded but is utterly unsuited to the present day."[93]

On 8th December the adequacy of the Government's policy on the location of industry was criticised in an adjournment debate. It was argued that in particular social as well as economic costs should be taken

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91 ibid., p. 32.

92 Cmd. 6153 (1940) Minutes of Evidence. para. 120.

93 The Times, 22 Nov. 1937.

into account in assessing the optional location of industry and that there should be deterrents against the establishment of new industries in the South East. The reply of the Parliamentary Secretary to the Board of Trade offered the opponents of the Government's policy no concessions on the question of deterrents. "We do not regard this House as being in any way committed to the policy of compulsion as opposed to inducements which has already been practised."[94] The dependence of the country on exports necessitated the production of goods at the lowest possible cost and therefore precluded the imposition of additional burdens on industry.

(iii) The Loans Facilities Bill 1939.

In our analysis of the Special Areas Acts 1934-7 we have assumed a homogeneity of legislative intention. We have depicted the perceived demands of the economy as imposing fundamental constraints upon the revival of the areas through the emphasis placed upon balanced budgets, reduced government expenditure, the reduction of surplus capacity and the avoidance of uneconomic competition. There is however sufficient evidence to suggest a shift in legislative intention after the passage of the Act of 1937.

For most of the remaining two years of the decade the special areas were politically overshadowed by the growing threat of war. By the end of 1938 the recovery had, however, ended and the economy had entered a renewed depression with a consequent worsening in the position of the areas. In July the Economist had pointed out that, "the unemployment statistics, the researches of the Pilgrim Trust and the revelations in the recent report of the Unemployment Assistance Board have revealed only too clearly that last year's relative prosperity did little more in the

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94 Hansard 5th Sers. H.C. Debs. vol. 330. col. 456. 8 Dec. 1937.

distressed regions of the North and Wales than throw into relief their distress and poverty."[95] Between October 1937 and October 1938 unemployment in the Special Areas had increased from 265,982 to 304,902. Of the Commissioners' total expenditure for the year less than one third had been spent on the assistance of industry. The 76 factories in production on the Team Valley Trading Estate employed only 1,605 people; a fraction of the estimated 130,000 unemployed in the Durham and Tyne area. Of these 76 factories only 3 had been offered financial assistance by the Treasury.

In November the Government announced its intention to extend the period of operation of the Special Areas Acts 1934 and 1937, which would lapse on 31st March 1934, for a further two years by their inclusion in the Expiring Laws Continuance Bill. Its stated intention did not meet the opposition which had been witnessed in previous debates. However under no great pressure and although no mention had been made of the measure in the King's Speech, the Government announced their intention in the debate on the Money Resolution to the Bill of relaxing the conditions applying to the provision of assistance to undertakings outside the Special Areas in order to make loans facilities more readily available.

The subsequent Loans Facilities Bill which received its first reading on 1st August 1939 was by the criteria of earlier measures exceptional. Its long title stated that it was, "to authorise the making of loans out of public moneys for the establishment of new industrial undertakings in certain areas where there is severe unemployment."[96] Clause 1 of the Bill provided that the Treasury could assist by way of loan any person who after the commencement of the Act

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95 The Economist, 30 Jul. 1938.

96 Hansard 5th Sers. H.C. Debs. vol. 350. col. 2181. 1 Aug. 1939.

proposed to establish, or had established and proposed to carry on, an industrial undertaking in an area which fulfilled the same conditions as were laid down in section 5(2) of the Act of 1937 and who were not for the time being in a position to obtain the requisite financial facilities for long and medium term periods. The determination of the question whether the conditions in section 5(2) were satisfied was not, as in the Act of 1937 dependent upon a favourable recommendation of the advisory committee, but was solely the function of the Minister of Labour.

Clause 2 provided for the retention of the Treasury's advisory committee, the power to grant assistance being dependent upon their recommendation. It also increased the status of local development councils.[97] Where they were satisfied that an undertaking established, or which it was proposed to establish, in an area had a reasonable expectation of economic success, was unable to obtain financial facilities and that its carrying on was unlikely to result in uneconomic competition with any existing undertaking on the area, then it could recommend to the advisory committee that assistance should be provided. The measure as outlined was therefore exceptional in that it greatly extended the limits of financial assistance to £200,000 in any one case. Moreover it allayed any fears of established industry and reinforced monopoly by giving statutory recognition to what had previously only been a feature of the implementation of policy by making the avoidance of "uneconomic competition" grounds for refusal of assistance.

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97 The influence of local development councils in the inclusion of the Acts in the Expiring Laws Continuance Bill was considerable. For them the policies pursued under the Acts represented an important aspect of the benefits they were able to point to for industries considering locating in their areas. Their developing role was in accordance with the first Commissioner's stated intention of encouraging local self-help through their establishment.

Underlying this extension of the principle of state-assistance was an apparent shift from a position in which the Government had sought to give the appearance of intervention to a position in which it was prepared to openly and actively assist the establishment of new industries. It should be noted that this shift had as its primary focus, not the solution of the problem of the depressed areas but rather the establishment of new industries and as such was peripheral rather than central to their immediate position. A growing economic as opposed to political rationale for regional policy is thus indicated at this juncture. Ultimately, this analysis is dependent for its validity upon two factors. Firstly, as regards industry, the extent to which attitudes had changed from earlier expressed fears of the creation of surplus capacity and unfair competition to active endorsement of the principle of state-assistance. Secondly and more generally, the extent to which the solution to renewed depression was perceived as dependent upon state-assistance. If this analysis is correct then the need for further analysis of the Conservative perspective in the latter years of the nineteen-thirties and in particular its view of the relationship between the State, finance and industry, is indicated.

The significance of the Bill was, however, short-lived. On the outbreak of war the Chancellor of the Exchequer, Sir John Simon announced that, "in the present circumstances the Government have come to the conclusion that there is no longer any justification for making special loan facilities available in particular areas and accordingly the Loans Facilities Bill will not be proceeded with."[98] Although full

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98 Hansard 5th Sers. H.C. Debs. vol. 351 col. 906 15 Sept. 1939.

production in an economy geared to the needs of war was to bring with it the demise of the problem of the depressed areas it did not signify the end of the problems of regional inequality and decline of which the depressed areas were the precursors. Neither did the powers contained in the Special Areas Acts lapse. Rather it was in the form of successive Expiring Laws Continuance Acts that they were retained until their eventual repeal by the Distribution of Industry Act 1945.

Part II.

The Development of Economic Law 1939-64.

Section A.

Government and the Economy 1939-64.

9. THE WAR ECONOMY

Introduction

The examination of the main features of an economy geared to war production and of the instruments for the attainment of that purpose might seem unnecessary in view of the exceptional nature of the circumstances to which they relate. The effect of the omission of such an analysis of the British economy between 1939 and 1945 would, however, be to ignore developments which were not only significant in themselves but also of significance for the subsequent peacetime economy. Since the concern of this thesis is with the development of economic law through several decades, the war economy is treated here, not in exhaustive detail, which would be to go beyond the scope of this thesis, but rather with regard to its influence on post-war developments. There were, in particular, three main features of the period between 1939 and 1945 which were of post-war significance.

The first feature and the most significant in relation to the analysis of intervention in the economy was the change that took place in political perspectives as a consequence of the war. Whereas politics in the nineteen-thirties were, as has been seen, dominated by Conservatism, the war witnessed a shift from the Right to the Left in British politics encompassing the emergence of a broad reforming consensus in political opinion at the level of government, the inception of which as the "Middle Way" we have already examined in our analysis of political perspectives in the nineteen-thirties.[1] The consequence of the emergence of that consensus was to establish a commitment to certain objectives of policy including full employment and the welfare state which was gradually extended to all political parties and which was to be maintained by successive post-war governments. The analysis of the emergence of that consensus is therefore fundamental to an understanding of their policies in that it established a commitment to a minimum of intervention which no government could avoid in the attainment of those objectives.

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1 Supra.,

Secondly the economy underwent considerable dislocation as a result of the war. In confronting the problems posed by the return to a peacetime economy and in fulfilling the political commitments established during the war the Labour Government was to maintain and rely upon the machinery established for the control of the wartime economy. The maintenance of the controls in the immediate post-war period was in contrast to the end of the first world war when the controls had been immediately abandoned. The exposition of the main features of the system of control as well as the economic problems arising from the return to peace is therefore a necessary preliminary to our examination of government intervention in the economy during the post-war period.

Thirdly and finally the prospect of an end to the war and the shift in political opinion that had taken place raised the issues of the nature and the shape of post-war British society. This concern was reflected in the substantial consideration devoted by the wartime coalition government after 1942 to the problems of reconstruction posed by the transition to peace. The analysis of the problems posed and the policies devised in response to them are of especial relevance to our thesis in two main areas; employment policy and regional policy. Both the White Paper on Full Employment[2] and the Distribution of Industry Act 1945, which governed the post-war administration of regional policy for the major part of the period under consideration, were coalition measures.

Discussion of both of these developments will be deferred until our analysis of regional policy in the second section of this part but the emergence of both under the aegis of the Coalition Government is indicative of the influence of developments during the war on the post-war period. This chapter will therefore concentrate on the changes in political perspectives that took place, the organisation and the control of the wartime economy and the main economic problems that emerged as a consequence of the war in so far as their

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2 Employment Policy, 1944 Cmd. 6527.

examination is essential to an understanding of the economic problems confronting the first post-war Labour Government.

(i) Changes in Political Perspectives

There are two related features of the changes in political perspectives, which took place during the war, which are of significance for our analysis. Firstly the period saw a substantial shift from the right to the left in political opinion which culminated in the defeat of the Conservative Party and the return to power of a Labour Government at the general election of 1945. "The war", Miliband writes, "caused the emergence of a new popular radicalism of which the electoral beneficiary was Labour."[3] Secondly the period witnessed the establishment of a reforming consensus at the level of government and with it the prospect of a new era of social welfare and the implicit rejection of those, "who believed that the conditions of the nineteen-thirties were decreed by iron laws of circumstance."[4] Commenting on both features Addison describes the changes that took place as amounting to "a reformation of British politics."[5] The experience of war, he continues, "bred the demand for a better society when the fighting was done, lifted the Coalition on to a new plane of reforming consensus, swinging opinion decisively from Conservative to Labour, dismissed Churchill from office and made Attlee Prime Minister."[6]

Any explanation of the shift in political opinions that took place must take into account a multitude of disparate factors. To take but one example, the social drive towards egalitarianism which was one manifestation of the change that took place and which received popular expression with the

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3 Miliband, op.cit., p.

4 Addison, op.cit., p. 21.

5 ibid., p. 13.

6 ibid.

publication of the Beveridge Report[7] has been explained in terms of a culmination of the demands for "equality of sacrifice" imposed by the needs of war,[8] a reaction against Conservatism as the dominant political force of the nineteen-thirties[9] and the thesis, widespread among the intellectuals who formed the vanguard of the "middle way", of war as the midwife of social progress.[10] Whatever the exact explanation, and any explanation would have to take account of these factors, the nature of the change that took place is indisputable. Commenting in May 1942 a Times leader said, "there is discernible everywhere to-day a tide of feeling which knows no party and no boundaries but moves towards new conceptions of security and social justice."[11] Its extent can be gauged by a comparison of the Labour Party's manifesto of 1945, Let Us Face the Future, with the Party's policy documents of the nineteen-thirties. Addison writes that, "had they gone to the country in 1939 with the programme of 1945, they would have been issuing a strongly radical challenge. But in 1945 they had only to consolidate and extend the consensus achieved under the Coalition, and build upon the new foundation of popular opinion."[12]

Although the immediate significance of the shift in political opinion probably cannot be overestimated its effect was rendered paradoxical and in the long-term overshadowed by the second feature, that is the emergence of a reforming consensus at the level of the Coalition Government. "Simultaneously there was emerging among the parties, as the result of their partnership in the Coalition, a common approach to the long-term future. From this distance in time (1975), the new wartime consensus appears more significant than the particular verdict of the electors in 1945. For the war inaugurated an era of consensus, sustained later on by the growth of "affluence" in the 1950s and 60s."[13]

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7 Report of the Committee on Social Insurance and Allied Services (1942) Cmd. 6404.

8 Addison, op.cit., p. 162.

9 ibid., p. 195.

10 ibid.,

11 The Times, 29 May 1942.

12 Addison op.cit., p. 261.

13 ibid., p. 164.

The swing to the left in political opinion was rendered paradoxical by the claims subsequently advanced by all parties to have participated in the formulation and development of the programmes of wartime reform. For the Conservatives R.A. Butler and Henry Willink had promoted education and health service reform respectively. Keynes and Beveridge, the originators of full employment and the social security programme have been frequently identified with Liberalism. Labour, meanwhile, provided the main impetus behind domestic reconstruction generally. Such claims do not bear equally close examination. Butler and Willink were neither the originators of the schemes which they promoted nor representative of the majority of their party. The Conservative Party was not committed to an acceptance of full employment and the Welfare State until the publication of the Industrial Charter in 1947. Keynes and Beveridge, in common with the other experts who provided the technical blueprints for reconstruction, were first and foremost committed to the implementation of their policies by any party rather than their adoption by any one particular party. Addison concludes that, "there is less of a paradox to wartime politics that appears at first. The growth of consensus in the realm of Government was not in contradiction to the popular swing to the left. Both represented a loss of initiative by the Conservatives in home affairs, and a repudiation of the record of the National Government of 1931-40 ... We have to picture the Conservatives by 1945 as victims of the wind and tide, driven off course, and apprehensively dropping anchor in strange Keynesian waters."[14]

In our analysis of changes in political perspectives during the war there are therefore two features which are of significance for our subsequent analysis. Firstly the extent to which the emergent political consensus which parallelled the shift in political opinion served to establish a minimum political commitment to full employment and the welfare state below which

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14 ibid., p. 166.

no post-war government could go without the attendant possibility of jeapordising political cohesion and secondly the extent to which the shift in mass political opinion took place independently of changes in the perspectives of politicians. Although the two were related; the shift in attitudes was, for example, given expression to and reinforced by the publication of the Beveridge Report, popular opinion was to act as a continual spur to activity on the part of politicians in considering and responding to the problems of post-war reconstruction.

(ii) Government and the Economy

In the long term the assumption by the Coalition Government of overall responsibility for the control of the economy with its attendant adoption of Keynesian economics and the commitment to full employment was to result in a radical modification of the conduct of post-war economic policy.[15] Moreover the war permanently altered the relationship between government and industry in that it transformed the economic climate in which business affairs were conducted and gave further experience of the benefits, first witnessed during the inter-war period, of close cooperation between the two parties. Although "private" industry virtually ceased to exist the result was not, "the subjection of industry, to government dictate, but rather a system of intimate cooperation and coordination of industry and government in policy making and administration.[16]

In the short term the effect of the war was to force the United Kingdom, "into the most state-planned and state-managed economy ever introduced outside a frankly socialist country."[17] Two particular features

15 Winch, op.cit., p. 265.

16 S. Blank, Industry and Government in Britain: The Federation of British Industries in Politics, 1945-64 (1973), p. 35.

17 Hobsbawn, op.cit., p. 245.

of that development should be noted. Firstly it was a consequence of the demands imposed by the exigencies of war production under which all aspects of policy were to be subsumed[18] and the pressure for a greater degree of social equity reflected in public policy stemming from the shift in political opinions.[19] Secondly the particular policies evolved in response to the exigencies of war production were the product of two factors. Firstly they were a product of the accumulated governmental experience acquired both during the first world war during the latter period of which extensive government intervention had taken place and by the National Government in responding to the depression. The two main aspects of wartime policy, the controlled allocation of resources and the regulation of the overall monetary and fiscal climate, "presuppose the work of the National Government. Neither could be used with any degree of effectiveness if Britain were tied down to the gold standard or free trade."[20] Secondly the war marked the acceptance of Keynesian techniques of economic management. Fiscal and financial policy during the war and in particular the budget which offered the prospect of full employment became distinctly Keynesian. This acceptance of Keynesian economics in these vital areas of government policy making was largely a consequence of the recruitment of outsiders, and in particular economists, into the civil service which promoted greater interchange of ideas.

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18 Pollard, op.cit., p. 322.

19 In practice it is impossible to determine the weight that should be attributed to each of these factors respectively. Milward, in particular, raises the question of, "how far were social and economic changes, not in consonance with peacetime trends ... the product [not] of social pressures from below [but rather] the result of drive towards a better development of resources?" A.S. Milward, The Economic Effects of Two World Wars on Britain, (1970) p. 44.

20 S.H. Beer, British Politics in the Collectivist Age, (1967) p. 278.

The acceptance of Keynesian economics and their continued application in the post-war period presupposed,however, greater reliance on professional economic advice in the formulation of economic policies and greater sophistication in the acquisition and application of economic statistics than had previously been the case in British government. The recognition of these necessities and the organisational changes that accrued from them are therefore traced in more detail in the following section.

(a) Organisational Changes

Although the period between 1939 and 1945 saw considerable changes in the organisation of central government, with the creation of new ministries and the reorganisation of existing ones in response to the demands imposed by the war, the most important long term organisational changes were in the machinery for the provision of economic advice. By the end of the war reliance upon the advice of professional economists was to become an accredited and important feature of the formulation and implementation of policy by central government.

The adoption by governments during the inter-war period of professional economic advice in the formulation of policy had been at best, intermittent and minimal in its impact. Nor did the placing of that advice on a permanent basis with the establishment by Ramsay Macdonald of the Economic Advisory Council in 1930 result in any significant change. Progress was, it has been conceded, disappointing, and although the Council was to continue to work throughout the nineteen-thirties through subcommittees "the parent body itself in effect sank into oblivion"[21] long before it was formally wound up on the outbreak of war in 1939. Its comparative ineffectiveness has been attributed to, the widespread belief that current economic problems were a consequence of external circumstances about which little could be done, the continuous disagreement among the experts over the advice to be tendered and above all

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21 Daalder, op.cit., p. 207.

to the fact that, being an advisory body, it was separate from the departments responsible for decision-making. "In the words of Anderson, "it bore the appearance of an auxiliary engine not geared to the main shaft ... Ministerial responsibility was too diffuse. There was no effective minister in charge."[22]

Although the Economic Advisory Council was comparatively ineffective, a Standing Committee of the Council, the Committee on Economic Information under the chairmanship of Sir Josiah Stamp, continued to give advice throughout the nineteen-thirties until its absorption into the network of new advisory bodies that were set up on the outbreak of the war, It was notable as, "the first body at the centre of government consisting preponderantly of economists and concerned exclusively with economic advice."[23]

The outbreak of war lent immediacy to the desirability of the incorporation of economic advice in the formulation of economic policy. In the summer of 1939 the government requested three economists including Sir Josiah Stamp to undertake an examination of departmental preparations for war and to determine the question of their compatability with over-all economic policy. This Survey of Financial and Economic Plans, the Stamp Survey, led to the establishment of an interdepartmental committee for economic policy shortly after the outbreak of war to continue, under the chairmanship of Stamp the work initiated with the Survey. Both provided a focal point for Opposition criticisms of the excessive influence of the Treasury on economic policy and were widely regarded as an attempt to forestall pressure for the establishment of a Ministry of Economic Affairs which would assume

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22 Sir J. Anderson, The Organisation of Economic Studies in Relation to the Problems of Government, quoted in Daalder, op.cit., p. 206.

23 Introduction to D.N. Chester, (ed.) Lessons of the British War Economy, quoted in D.N. Chester, (ed.) The Organisation of British Central Government 1914-64 (2nd ed. 1968) p. 323.

overall responsibility for the formulation of wartime economic policy.[24] In this they were unsuccessful and the continuance of criticisms led to the establishment of a ministerial Economic Policy Committee to which the interdepartmental committee would report.

In November 1939, the first step in the establishment of a comprehensive expert staff was taken with the creation of a Central Economic Information Service, consisting of statisticians and economists recruited from the universities, which was placed within the Cabinet Office.

These developments did not, however, seriously affect the central role of the Treasury in the formulation of economic policy. It was not until the political upheaval which resulted in the fall of the Chamberlain Government in May 1940 and the realisation of the full economic implications of the war that the centre of initiative passed from the Treasury. "The shift in emphasis away from money to real resources as a basis for major decisions, the arrival in the Cabinet of Labour Ministers, and to some extent the reaction which set in against the men and measures of the previous administration, weakened the Treasury's position and afforded an opportunity for the initiative and influence in economic affairs to pass to the committees of the Cabinet."[25]

The organisational changes that resulted from the assumption of office by the Churchill Government meant that, "for the first time in British administrative history, economists were now drawn directly into the determination of central economic policy."[26] In January 1941 both the Stamp Committee and the Economic Policy Committee were dissolved. Simultaneously the Central Economic Information Service was divided into a Central Statistical Office and an Economic Section both of which were attached to the

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24 Winch, op.cit., p. 276. Daalder, op.cit., p. 210.

25 Chester (ed.) The Organisation of British Central Government, op.cit., p. 314.

26 Winch, op.cit., p. 211.

Cabinet Office. The reason for their division was a desire to guarantee the objectivity of statistical data and analyses.[27] While formally both bodies were envisaged as "common services", in practice, the Economic Section became an adjunct of the Lord President's Committee which with the eclipse of the Treasury rapidly emerged as the most important body in the formulation of domestic economic policy. With the addition of the Prime Minister's Statistical section and those economists recruited by individual departments, these bodies represented the main sources of comprehensive economic advice available in the formulation of economic policy throughout the war.

The significance of these organisational changes was both short and long-term. In general, in the short-term the successful pursuit of the war had necessitated the employment of economists and statisticians and had encouraged the application of economic theory and expertise to the solution of the problems which emerged. Although those developments were primarily a response to the problems which arose as a result of the necessity of organising the economy on a wartime basis, in the long-term they facilitated the application of Keynesian economics to the problems posed by the needs of post-war reconstruction and in particular the political commitment to full employment entered into by the Coalition Government, the realisation of which they effectively made possible. Administratively, in the short term, the problems posed during the war and the immediate post-war period by the continuance of shortages ensured their maintenance. In the long-term the commitment to full employment necessitated a statistical organisation and the collection of statistics on at least as extensive a scale as demanded by the war[28] and a service of expert economic advice, both of which were provided by the Central Statistical Office and the Economic Section respectively.

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27 Daalder, op.cit., p. 211.

28 Winch, op.cit., p. 278.

The significance of these developments was not therefore limited to the period between 1939 and 1945 in that they were to represent an important element of the machinery for the formulation of post-war economic policy. It is, therefore, important to recall that although they were an important feature of post-war policy-making, they were not specifically developed for that purpose and that during the war the relative importance of the various components of the machinery established for the control of the economy was, largely, a function of the influence of the individuals involved.[29] Thus, although the Treasury was to be temporarily eclipsed as a result of the fall of the Chamberlain Government and the prominence attained by the Lord President's Committee under Sir John Anderson, when Anderson became Chancellor of the Exchequer in September 1943, the status of the Treasury began to be restored. As Daalder concludes, "neither the government organisation for economic policy nor the problem of the place of economists in government had found a definite solution. In the field of economic policy, as elsewhere, the war had complicated rather than simplified inter-departmental relations."[30]

(b) The Machinery of Domestic Control

Although economically and administratively the expansion of government intervention during and after the second world war did not represent a decisive break with the past as was the case with the intervention that took place after the crisis of 1931, politically the expansion of state activity "was still shocking."[31] Professor Allen summarises the extent of the expansion that took place. "From a limited number of controls imposed in the early days over imports, foreign exchange and the use of materials, the government's authority was extended, as the war ran its course, over almost

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29 Daalder, op.cit., p. 214.

30 ibid., p. 215.

31 Hobsbawm, op.cit., p. 242.

every kind of decision that anyone who had factors of production at his disposal might make."[32] Such an expansion of intervention could not have been undertaken in the absence of the requisite legislative authority. In the main that authority had been provided within a month of the outbreak of the war. By 1st October 1939 forty seven Acts directly related to the war had been passed. "Based both on the experience of the previous war and on long study of probable contingencies, they, and the numerous Acts which followed them in the succeeding years, touched every aspect of national life and formed a remarkable achievement of legislative forethought."[33]

The main legislative authority for intervention in the economy during the second world war was the Emergency Powers (Defence) Act, 1939. It was substantially wider in form than its predecessor of the first world war, the Defence of the Realm Act, 1914. Whereas the Defence of the Realm Act empowered His Majesty in Council, "during the continuance of the present war, to issue regulations for securing the public safety and the defence of the realm,"[34] thereby enabling the control of regulations made under the Act through the application of the ultra vires doctrine the exercise of equivalent control over defence regulations made under the Emergency Powers (Defence) Act, was made virtually impossible by the wording of the corresponding provision. Section 1(1) provided that, "subject to the provisions of this section, His Majesty may by Order in Council make such Regulations ... as appear to him to be necessary as expedient for securing the public safety, the defence of the realm, the maintenance of public order and the efficient prosecution of any war in which His Majesty may be engaged, and for maintaining supplies and services essential to the life of the community." The ultra vires doctrine was therefore rendered effectively inapplicable by both the wide scope of the purposes for which the power could be exercised and its formulation in

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32 G.C. Allen, The Structure of Industry in Britain, (1961) p. 113.

33 C.K. Allen, Law and Orders, (1st ed. 1944), p. 205.

34 Section 1.

subjective terms, whereby the opinion of the Minister became the crucial factor. Moreover section 1(3) of the Act empowered such persons as might be prescribed in Defence Regulations made under the Act to make orders, rules or by-laws for any purpose for which defence regulations could be made by Order in Council. This provision for the delegation of the power to make regulations served to remove the exercise of the power contained in section 1(1) of the Act one stage further from the institution charged with the control of the legality of its exercise, the courts.

Paradoxically, therefore, although the period between 1939 and 1945 witnessed a enormous expansion of government intervention in the economy, the practice of taking wide powers by means of emergency legislation meant that there was no corresponding increase , along the lines we have noted during the inter-war period, of legislative enactments dealing with individual sectors of the economy and economic policy. As will be seen clearly in our examination of the development of regional policy during the war, the study of economic law during this period, requires, of necessity, the examination of the Defence Regulations made under the Emergency Powers (Defence) Act, 1939. Such individual enactments as were passed during this period will be examined, with the exception of the Distribution of Industry Act, 1945, in the more detailed examination of post-war industrial policy in the next chapter.

(c) The Instruments of Control

It would be erroneous to depict the machinery for the control of the economy as either having been finalised immediately upon the outbreak of the war or as gradually emergent throughout the period of its duration as was the case with the first world war. It was rather a product of the successive phases of the war, the needs of which required major changes of economic policy.[35] Four main phases of the war may be distinguished. The first period which was essentially one of waiting lasted from the outbreak of

35 Pollard, op.cit., p. 298.

the war until the fall of France in the summer of 1940. During the second period which lasted until the entry of the U.S.A. into the war in December 1941 prospects seemed at their bleakest and the pressure on resources of materials and manpower was at its most intense. The entry of the U.S.A. into the war brought with it the prospect of ultimate victory and with it the first consideration of the shape of the post-war economy. These considerations were lent additional urgency by the vision of a return to peace afforded during the beginning of the fourth and final phase of the war by the successful invasion of Normandy in June 1944.

There were two main types of controls used throughout the period, physical and financial, each of which will be examined in turn.

(i) Physical controls

The main instrument of economic planning throughout the war, which reflected the subordination of finance to the availability of physical resources as the main determinant of economic policy, was physical controls. Of these the most important was the control and direction of manpower. "Since manpower was the ultimate limiting factor in the mobilization of the war economy, it eased life for the government to budget by fixing the levels of manpower necessary in the services, civil defence, war industry, and the rump of the peacetime economy."[36] In May 1940 the Minister of Labour acquired unrestricted powers of conscription and direction of labour.[37] These powers of conscription and direction were supplemented in March 1941 by the Essential Works Order and the Registration for Employment Order,[38] under which workers could be sent to, or kept in, essential industries or occupations, according to their age, sex and skill.

Physical planning culminated with the introduction of the first manpower budget in December 1942. Its introduction signified the emergence of

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36 Addison, op.cit., p. 170.

37 S.R. & O. (1940), No. 781.

38 S.R. & O. (1941), Nos. 302 and 368.

the manpower budget and the allocation of labour as the central tools of economic planning.[39] By the end of the war the manpower budget, "had become a very powerful instrument ... the only method the War Cabinet ever possessed of determining the balance of the whole war economy by a central and direct allocation of physical resources among the various sectors ... At the end of the war the manpower budgets were the main force in determining every part of the war effort from the numbers of R.A.F. heavy bombers raiding Germany to the size of the clothing ration."[40] The drastic nature of the powers taken and the potential volatility of the area of their application served, however, to restrict recourse to them. They were "the most unpopular and the least rigidly enforced of all controls."[41] In practice, therefore, the government continued to rely as far as possible on the voluntary cooperation of the unions and the use of voluntary, peace time machinery.

Apart from the direction of labour the control of the economy was effected by a variety of other physical controls. Both consumer goods and raw materials for producers were rationed; the former by means of a points system which enabled the retention of some freedom of choice.[42] The rationing of the allocation of raw materials to producers was partly an anti-inflationary measure and also a means of quickly diverting raw materials from civilian to war production. In conjunction with the utility schemes introduced in 1941 and 1942, which laid down detailed specifications for the standards and prices of goods, they ensured an adequate supply of essential goods of a minimum standard.[43] The exigencies of war production also

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39 Pollard, op.cit., p. 305.

40 W.R. Hancock and M.M. Gowing, British War Economy (1949) p. 452.

41 P.T.D. Wiles, Pre-War and War-Time Controls, in G.D.N. Worswick and P.H. Ady, (eds) The British Economy 1945-50. (1952) p. 147.

42 ibid., p. 149.

43 ibid., p. 150.

necessitated the compulsory concentration of less essential industries and the expansion of two in particular: agriculture and engineering. The effect of these developments appears not to have been as adverse as might at first have been thought. Within those sectors of production which had been rationalised the concentrated firms appear to have resumed production on the cessation of the war; a resumption which was undoubtedly assisted by the expansionary nature of the post-war economy.[44] Moreover, as regards those sectors which were compelled to expand, including engineering, metals and chemicals, "it was fortunate that these included many of the industries that were destined to play a leading part in the post-war reconstruction of Britain."[45]

(ii) Fiscal and Financial Policy

Although as we have seen finance ceased to be the main determinant of economic policy "it remained one of its major instruments,"[46] in ensuring the maximum return from the use of productive resources, maintaining the value of the pound and raising revenue. In the period immediately after the outbreak of the war fiscal and financial policy had two main objectives. Firstly, the avoidance of inflationary price increases and secondly the meeting of the increased expenditure resulting from the war as far as possible out of increased taxation rather than borrowing.

The prevention of inflationary price increases was attempted through retail price policy and through general budgetary policy. Retail price policy took the form of both subsidies and price controls. The initial subsidisation of items within the cost of living index was indicative of early fears of inflationary pressure within the economy and was undoubtedly premature. By the middle of 1940 subsidies had, however, become an integral

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44 ibid.

45 Pollard, op.cit., p. 321.

46 ibid., p. 322.

feature of economic policy coupled with heavy taxation of those items outside the index. Other items of household expenditure such as rent were also controlled by individual legislative enactments.[47]

Although maximum wholesale and retail prices were fixed by the Ministry of Food immediately upon the outbreak of the war, control of price increases in non-food consumer goods and services was not attempted until December 1939. C.K. Allen has described the first measure in this area, the Prices of Goods Act, 1939, as "a new and more comprehensive version of the Profiteering Act, 1919, which established widespread controls aimed at averting from the beginning, the ill-gotten gains which had been a scandal of the earlier war."[48] In fact the Act was somewhat more restricted in its scope and less than successful in the attainment of its stated objective. The Act did not make any provision for the fixing of maximum prices but sought rather to restrict prices increases to those which could be justified by increases in costs and to keep the net profits of traders at the level of August 1939. "In practice it proved ineffective except against the most flagrant cases of overcharging."[49]

The reasons for the failure of the legislation are largely attributable to the approach embodied in it. The provisions of the Act did not apply to classes of goods, but to goods sold by individual traders. Conviction under the Act required proof that an individual trader's price had risen by more than justifiable cost increases, rather than proof that the price charged was higher than it ought to have been for that class of goods. Its provisions were therefore open to widespread abuse in that traders could legally boost the price by selling the article back and forth between them. The avoidance of any attempt at fixing a prescribed price indicates a

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47 Rent and Mortgage Interest Restriction Act, 1939.

48 Allen, op.cit., p.

49 Wiles, op.cit., p. 144.

second failing of the legislation, that is, the absence of any central or local government responsibility for the enforcement of its provisions. Enforcement was left to individuals who were required to complain to a local Price Regulation Committee. This reliance upon individual enforcement coupled with the lack of publicity given to the provisions of the Act ensured its comparative lack of impact.

The problems posed for the control of price increases by the absence of central or local government responsibility for the fixing of maximum prices or the enforcement of the legislation were to a certain extent to be overcome by the informal arrangements entered into by the only institutional machinery provided by the legislation, the Central Price Regulation Committee, and manufacturers of branded goods which led to the fixing of permitted prices for all branded articles. The amending legislation, the Goods and Services (Price Control) Act 1941 cured the defects of the previous legislation. The Board of Trade was empowered to fix maximum prices for any goods and services and to fix maximum profit margins at all stages of the productive and distributive processes. Enforcement was no longer dependent upon individual complaints but became the direct responsibility of the Board of Trade. The Act also proscribed the more obvious evasive measures which had arisen in response to the Act of 1939. Although price control never became quite complete,[50] the machinery for the comprehensive regulation of prices was in existence by the middle of 1941.[51]

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50 Hancock and Gowing, op.cit., pp. 501-4.

51 The subsequent amending Act, the Price Control (Regulation of Disposal of Stocks) Act, 1943 was primarily concerned with the rationing of goods. It provided for the restriction of the sale of certain classes of goods or their sale to certain classes of persons except under licence issued by the Board of Trade.

Subsidies and price controls were, however, only an attempt to mitigate the consequences of the inflationary problem rather than a solution of it. The essence of the problem was "the fact that the Government was attempting to absorb a much larger share of the national resources than individuals and firms were willing to forgo; and since physical controls could never be made quite tight enough to achieve this transfer unaided there developed inevitable shortages leading to price rises, which became particularly acute whenever there occurred a change in Government policy involving a major switch in resources. This underlying cause of inflation could ultimately be combated only by a conscious withdrawal of purchasing power from the public."[52] The principal method of achieving this withdrawal of purchasing power was by means of increasing taxation through the budget supplemented by a number of other instruments of policy with the same objective.

The initial rationale for increasing taxation was, however, simply as a means of raising revenue. Through increased revenue the deficit between income and expenditure would be reduced. This restrictive conception of budgetary policy with its counterpart of balanced budgets which had dominated Treasury thinking during the inter-war period was the subject of increasing criticism during the early months of the war. The critics were led by J.M. Keynes who had considered the problem in a series of articles in the Times during the first weeks of the war which were later published, as a pamphlet entitled How To Pay For The War. Keynes condemned the traditional assessment of revenue according to the principle of what the taxpayer would bear and argued in favour of firstly calculating the national income to enable the determination of the capacity for war-making available and the level of taxation necessary to transfer that part of the national income to the Government which formed the "inflationary gap" between effective money demand and the value of available goods and services.

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52 Pollard, op.cit., p. 324.

The calculation of the "inflationary gap" was dependent upon the estimation of future levels of demand and savings taking into account government income and expenditure. These pioneer national income and expenditure statistics were first formulated by Keynes and two of his colleagues, James Meade and Richard Stone, during the winter of 1940. Keynes' dominance of professional economists' opinion, coupled with the failure of existing policies to deal with inflation and the change of government in the summer of 1940, precipitated acceptance of his analysis. The Chancellor of the Exchequer, Kingsley Wood's, budget of April 1941 was "a triumph for the Keynesians."[53] It was based on an analysis of national income and expenditure and the acceptance of the new approach was symbolised by its accompaniment by a White Paper setting out the official estimates of national income and expenditure.[54] Moreover as Addison points out the significance of the new approach was not restricted to the war. "The methods of forecasting and regulating aggregate demand were introduced for the immediate purpose of helping the war effort, but their application was permanent. When the war ended, and physical controls were gradually abandoned, they would plainly become the chief instrument of economic management. They also opened up the vista of maintaining demand at the level necessary to prevent mass unemployment."[55] The only other major innovations in fiscal policy during the war were the introduction of purchase tax in 1940 as a means not only of raising revenue but also of restricting and influencing consumption and the introduction of "Pay As You Earn" in September 1943.

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53 Addison, op.cit., p. 171.

54 The Sources of War Finance. An Analysis and an Estimate of the National Income and Expenditure in 1938 and 1940. 1941 Cmd. 6261.

55 Addison, op.cit., p. 171.

Although as we have seen the restrictive concept of budgetary policy as simply a means of raising revenue was abandoned with the introduction of the first Keynesian budget in April 1941 the problem of meeting the Government's borrowing requirement did not thereby disappear. Taxation covered only approximately half of the cost of the war and the remaining cost had to be covered by increased borrowing. To cover the deficit virtually, "the whole of the savings in the private sector had to be made available to the Government."[56] Savings were transferred to the Government by two complementary methods. Firstly, by the operation of direct controls over investments which precluded the utilisation of funds for alternative purposes and secondly by the making of attractive offers for them.

Direct controls over investments were in the main negative. Among them were, the suspension of opportunities for physical investment in new capital goods through the control of the allocation of resources, the control over new capital issues of over £10,000 by the Capital Issues Committee which was set up in 1939 and dominated by the Treasury,[57] strict exchange control and the prohibition of foreign issues and the restriction of bank advances intended for capital construction coupled with pressure on the clearing banks to make as many resources as possible available to the Government.

Apart from restricting possible outlets for existing resources the Government also sought to attract them by making attractive offers for them. This task was facilitated by its ability, largely as a result of the restrictions in operation and the general plentifulness of money, to maintain the policy of "cheap money" throughout the war. Having remained at two per

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56 Pollard, op.cit., p. 327.

57 Defence (Finance) Regulations, S.R. & O. (1939), No. 1620.

cent for seven years, the bank rate was suddenly and inexplicably raised to four per cent in August 1939. Thereafter it was reduced to three per cent where it remained for the duration of the war. Since expectations of interest levels were low the Government was able to absorb existing savings by a policy of offering the lowest rate necessary to each sector of the market to secure the resources with a consequent minimal increase in the cost of servicing the national debt.

Fiscal and financial policy were therefore successful in the attainment of the tasks allotted to them after the budget of 1941 of reducing excessive money demand by means of increased taxation whilst enabling the financing of the war effort by the Government out of increased revenue and borrowing.

(d) External Policy

The impact of the war on Britain's external position was considerable. The loss of traditional export markets, the near disappearance of invisible exports and the emergence of the sterling balances were to represent problems which would affect not only the external but also the internal economic policy of successive post-war governments. The main problem during the war was the likelihood of an adverse balance of payments as a result of the reduction of exports and invisible earnings which would threaten the value of the pound.

Initial responses to the problem were contradictory and it was not until 1941 that a coherent policy was evolved. The immediate response in February 1940 to the realisation of the likelihood of an adverse balance of payments was to attempt to meet it by a major increase in exports. Such an increase could only be undertaken at the cost of imposing further burdens on already limited resources and it was abandoned after the fall of France when the needs of war production became paramount.

There were two related aspects to the problem posed by the adverse balance of payments after the summer of 1940. There was firstly the problem of maintaining the value of the pound at the fixed value of $4.03 and secondly the problem of meeting the deficit on the balance of payments. Two main instruments

of policy were used in response to the first problem; import controls and financial controls. Although both were introduced immediately the scope of their initial application was limited. Formal general import control was not imposed until June 1940 and the initial application of exchange control did not cover payments within the "Sterling Area" or foreign holders of sterling balances. Only in May 1940 were the balances held by the latter, which were by then negligible, blocked and all further leaks from the "Sterling Area" were stopped by a series of bilateral trade treaties.[58]

The deficit on the external balance of payments was met by two methods; the sale of capital investments and the raising of loans in the two main currencies the dollar and the pound sterling. Loans were raised within the "Sterling Area" by means of the establishment of credits held in London in block accounts, the sterling balances, in return for imports. By this means over £4,000 millions was raised from the non-dollar world.[59] Loans from the dollar world were raised from both Canada and the U.S.A. While the Canadian contribution was considerable, amounting to nearly £2,000 millions, the most import source was the U.S.A. Until the commencement of land-lease in March 1941 all purchases from the U.S.A. had to be paid for in dollars. By the end of 1940 the United Kingdom's dollar resources in both liquid reserves and saleable capital assets were exhausted. Lend-lease by enabling the supply, free of charge, for the duration of the war, of all goods and services needed by the United Kingdom and available in the United States provided an effective solution to the problem posed by the absence of financial reserves. It did, however, give rise to difficulties over the question of United Kingdom's exports and gold and dollar reserves. In September 1941 the Government

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58 Pollard, op.cit., p. 332.

59 ibid., p. 334.

prompted by American pressure undertook not to allow the use of lend-lease materials in exports. At the time the agreement was of little significance but it assumed major importance towards the end of the war when consideration was given to the necessity of re-establishing the United Kingdom's export trade, the markets of which had been lost as a result of the war. By late 1944 it was agreed that the United Kingdom had the freedom to begin the reconversion of some of its industries to exports and to restart its export trade from the beginning of 1945. The United Kingdom's gold and dollar reserves which had been exhausted by the end of 1940, were, by 1943, beginning to rise again largely as a result of expenditure by American troops in the United Kingdom. In response the U.S.A. restricted the terms of land-lease thereby necessitating the depletion of the newly acquired reserves. Moreover although the American administration had conceded the desireability of the United Kingdom entering the post-war world with dollar reserves considerably in excess of those held in 1944 it proved in practice impossible to increase them to the agreed level; a problem which was further compounded by the abrupt cessation of lend-lease in August 1945 which confronted the United Kingdom with a shortage of dollars with which to pay for those goods on order and future supplies of necessities.

The impact of the war on Britain's external position was therefore uniformly adverse. Apart from the loss of its export markets, it had been compelled to realise over £1,100 millions of capital assets, to reduce its gold and dollar reserves by over £150 millions and to increase the total of external indebtedness including the sterling balances by almost £3,000 millions.[60] Moreover, "the British Economy had become utterly dependent on a large import surplus from America, not only of war-time materials but also of peace-time commodities. With her capital equipment run down, more resources devoted to war and needing reconversion than any other ally, her overseas earnings reduced by the loss of one-quarter of her shipping and almost half her investments,

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60 A.J. Youngstorr, The British Economy, 1920-57 (1960) p. 148.

she was quite unable to earn the necessary dollars, even if the standard of consumption were cut further."[61] Therefore, although the war had witnessed considerable advances in the formulation and implementation of economic policy, the economic burden imposed by it was substantial and the problem of adjusting to it was to continue to exercise a considerable influence on the content and direction of post-war economic policy.

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61 Pollard, op.cit., p. 339.

10. THE LABOUR GOVERNMENT, 1945-51

Introduction

The Labour Government which entered office in July 1945, did so, having overcome the obstacles which had hampered the progress of the Party during the inter-war period. Although still committed to the attainment of socialism by parliamentary means it no longer suffered from the inability to formulate a coherent and realistic alternative to Conservatism which had condemned it to the political wilderness during those years. Rather, its years of office in the Coalition Government had not only given it invaluable experience of government but had also taken place at a time during which a shift in political opinion occurred which represented a decisive rejection of the Conservatism of the inter-war period in favour of a new era of social justice which the Party had only to consolidate and expand to reap the fruits of electoral victory.

The Government entered office committed to the planning of the economy. Its ideas on economic policy derived in essence from its determination to remedy the social inequalities of the inter-war period which, it was argued, were a product of the inefficiency of inter-war capitalism rather than its inherent injustice. Two particular approaches to economic policy were developed from this analysis. The first envisaged the necessity of overcoming the perceived bankruptcy of capitalism by means of total planning.[1] The second and subsequently predominant approach attempted to assimilate the developing Keynesian analysis as part of a more discriminating and gradualist approach[2] and in doing so provided "a reasonable philosophic basis for the conduct of a Labour Government."[3]

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1 See for example, Sir Stafford Cripps, Why this Socialism? (1937) G.D.H. Cole, Principles of Economic Planning.(1935).

2 Douglas Jay, The Socialist Case. (1938).

3 J.C.R. Dow, The Management of the British Economy. 1945-60. (1964) p. 23.

Seen from the common origins of these two approaches the subsequent record of the Labour Governments was impressive. Not only did they consolidate the work of the Coalition Government through the completion of the expanded welfare state envisaged by Beveridge but they also supervised the transformation of the economy from a war to a peacetime basis with minimal dislocation and unemployment, placed it on a secure post-war footing and implemented a substantial measure of nationalisation. These attainments were seen by the majority of the leadership of the Party as providing the foundation of an ultimately socialist Britain.[4] Advocates of a policy of "socialism now" were, however, to be less favourable in their assessment of the record of the Labour Governments between 1945 and 1951 and testimony to the considerable support for their views was found in the divisions which afflicted the Party throughout the nineteen-fifties. In particular its critics rejected the gradualist approach of pragmatic reform within the political and economic framework of capitalism which had been initially promoted by the "middle way" and subsequently espoused by the Labour Government, arguing that its adoption amounted to an abandonment of the Socialist objective. The tension between these two strands of the party's perspective and the predominance of the gradualist approach can best be initially examined through an analysis of economic planning during this period.

(i) The Labour Governments and Economic Planning

At the outset it should be recalled that the machinery of post-war planning and its objectives did not derive exclusively from the Labour Government. Comprehensive planning of the economy had first been mooted in response to the depression of the nineteen-thirties and its acceptance during the war was, as has been seen, promoted by the necessity of the complete mobilization of all resources. It was therefore in origin

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4 Addison, op.cit., pp. 271-3.

pragmatic and primarily directed to the allocation of scarce economic resources on the basis of immediate military and economic needs rather than, as it would have to be were it to be successfully used in the attainment of an ultimate political objective, on the basis of a long-term plan. It was this machinery which was inherited by the Labour Government and its inherent suitability for post-war planning was therefore questionable.

The Labour Party's manifesto, Let Us Face the Future, failed to specify what was entailed in the commitment which was made in it to the planning of the economy. During the period between 1945 and the beginning of 1947, the Government showed no sign that it considered it necessary to specify what was involved in any greater detail and its attitude during this period has been universally criticised as one of undue complacency. Chester states that, "looking back now one can see that many Ministers and senior officials showed undue satisfaction, even smugness during the first year at least of the Labour Government.[5]

During this initial period economic policy-making was dominated by the necessity of securing an orderly demobilisation of manpower and resources, the reconversion and re-equipment of industry and a substantial increase in export earning capacity to meet the problem of the balance of payments. In devising policies to attain these objectives reliance was placed primarily on the physical and financial controls developed during the war. Morrison recalls that, "it is fair, I think, to say that what happened was the ad hoc use of economic and financial controls came first, together with a limited amount of economic planning."[6] The machinery for the coordination of economic policy remained essentially unchanged from that developed

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5 D.N. Chester, Machinery of Government and Planning in Warswick and Ady, op.cit., p. 341.

6 H. Morrison, Government and Parliament: A Survey From the Inside, (3rd ed. 1964) p. 308.

during the war, the emphasis of governmental activity being on the development of "a system of coordination through Cabinet Committees rather than the direct economic administration by one leading economic Minister."[7] Below these Cabinet Committees of which the most important was the Lord President's, four interdepartmental committees for manpower, raw materials, capital investments and the balance of payments, were established with the task of recommending the balance to be struck between the overall needs of these sectors against the limited resources available. The reconciliation and coordination of their conflicting recommendations were the functions of a steering committee composed of the Permanent Secretaries of the main economic departments and chaired by the Permanent Secretary to the Treasury.[8]

The danger of this approach to the formulation of economic policy was that policies emerged as ad hoc compromises between conflicting departmental interests rather than as rational responses to problems, devised in accordance with long-term objectives. Apart from this danger the machinery had other failings. Although responsibility for the overall coordination of economic policy was retained by the Lord President of the Council, both the Board of Trade under Stafford Cripps and the Treasury under Hugh Dalton increased in importance throughout this period. It became not only "a matter of some doubt how far the Treasury was subject to the machinery of economic coordination,"[9] but, moreover, "at times between 1945 and 1947, the Lord President as the coordinator of domestic economic policy, the President of the Board of Trade as the stimulator of the export trade, and the Chancellor of the Exchequer as the minister responsible for the country's financial situation pursued conflicting

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7 ibid.,

8 Chester, op.cit., p. 341.

9 Morrison, op.cit., p. 317.

policies. Apart from objective differences in tasks and views, personal rivalries between Morrison and Dalton may have worsened these divergencies."[10] Calls for the establishment of a production general staff, free from departmental pressures and with overall responsibility for economic planning were, however, rejected by the Lord President of the Council.[11]

The early complacency shown by the Government over the machinery of economic planning was rudely shattered by the food, fuel and exchange crises which quickly followed each other during 1946 and 1947. The food crisis of 1946 resulted in the imposition of bread rationing and it was followed in February 1947 by the fuel crisis which caused a temporary but nevertheless major disruption of the economy. These developments cast considerable doubt on the adequacy of the planning machinery and on 10th March 1947, the President of the Board of Trade announced the intention of the Government of strengthening the inter-departmental arrangements then in existence through the establishment of a Central Economic Planning Staff under a Central Economic Planning Officer charged with the preparation of long-term plans and their alteration in the light of changing circumstances.[12] The announcement bore the hallmark of being a short term reaction to immediate circumstances rather than the product of a long-term critical assessment of the adequacy of existing arrangements. "Events", Chester comments, "moved rather slowly showing that these announcements represented decisions reached in the light of strong current criticism."[13] The announcement of the appointment of Sir Edwin Plowden as Chief Economic Planning Officer was not made until 27th March and the staff was not established until May.

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10 Daalder, op.cit., p. 217.

11 ibid., pp. 218-9.

12 Hansard 5th Sers. H.C. Debs. Vol. 434 cols. 69-71 10th March 1971.

13 Chester, op.cit., p. 345.

Concern with the image of the Government and the importance attributed to consulting affected interests in the formulation of economic policy were reflected in the establishment in June 1947 of an Economic Information Unit within the Lord President's Office to coordinate and stimulate information on economic issues and in the following month of an Economic Planning Board. The function of the Board was "to advise His Majesty's Government on the best use of our economic resources, both for the realization of a long-term plan and for remedial measures against our immediate difficulties."[14] Although, significantly, in announcing their establishment stress was laid on their role in securing the understanding and cooperation of private enterprise in the formulation of economic policy, "undoubtedly, they were also symbolic of the Government's desire to restore its greatly diminished prestige by "public information" and "consultation".[15]

The prestige of the Government was further diminished by the sterling convertibility crisis of August 1947. The abrupt cessation of lend-lease in August 1945 had given rise to an immediate balance of payments crisis. The Dollar Loan Agreement negotiated by Keynes in 1946 succeeded in easing the pressure on the balance of payments but its conclusion required the ratification by the British Government of the Bretton Woods Agreements including the provision that sterling be made fully convertible within a year of the signing of the Agreement.[16] Sterling was made convertible on 15th July 1947 but with a world-wide shortage of dollars, and sterling the only currency being convertible the burden of the demand for dollars was immediately borne by sterling. Within a month the outflow of dollars had increased to such an extent that the controls had to be reimposed.[17]

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14 Hansard 5th Sers. H.C. Debs. vol. 439. col. 1084 7 July 1947.

15 Daalder, op.cit., p. 221.

16 The Bretton Woods Agreements were ratified by the Bretton Woods Agreement Act, 1945.

17 Dow, op.cit., pp. 24-5.

Over the year the deficit on the balance of payments was £545 millions while the gold and dollar reserves fell by over £600 millions.[18] This serious deterioration in Britain's external economic position resulted in a further revision of economic policy. Food imports had to be cut and investment sacrificed for increased exports.

Changes in the machinery of economic planning were widely expected as a result of the renewed crisis. On 28th September it was announced that the President of the Board of Trade, Stafford Cripps, would take over the new office of Minister for Economic Affairs. In the performance of his functions he would be assisted by the Central Economic Planning Staff, the Economic Information Unit and the Economic Section of the Cabinet Secretariat. At the same time the Lord President of the Council lost his responsibility for the coordination of economic policy with the replacement of the Lord President's Committee by a new Economic Policy Committee of the Cabinet chaired by the Prime Minister.

The appointment of Stafford Cripps as Minister for Economic Affairs marked a shift from the practice of coordinating economic policy through a system of Cabinet Committees to "direct economic administration by one leading economic Minister,"[19] It also marked the emergence of Stafford Cripps as "the most powerful personality among the Ministers concerned with economic affairs "[20] and raised the crucial question of the relationship between the new Ministry and the Treasury, the importance of which had steadily increased as a result of the return to more orthodox budgetary and financial policies after the war. The importance of the relationship between the two is summarised by Chester, "In the control of the national economy the weapons of financial manipulation are vital, but they form only one method of control ... A Minister who was responsible for the whole of the

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18 Pollard, op.cit., p. 360.

19 Morrison, op.cit., p. 308.

20 Chester, op.cit., p. 348.

economy might with some justice claim the right to direct all methods of control, including those of a purely financial character. If the Minister for Economic Affairs was not to be in a position to tell the Chancellor of the Exchequer how to use his financial powers, it was essential that the two Ministers should work in the closest harmony."[21] The question of the relationship between the two Ministers was never to be resolved. On 13th November Hugh Dalton resigned and Stafford Cripps became Chancellor of the Exchequer taking with him the responsibilities which he had briefly exercised as Minister for Economic Affairs. The Treasury therefore became the central economic planning department, a position which it was to retain for the remainder of the period under examination. Apart from the Economic Section of the Cabinet Secretariat, the most important organisational innovations of the previous years which were still in existence, including the Chief Economic Planning Officer and Staff and the Economic Information Unit were transferred to it. "For the first time, control over the import programme, overseas finance, the investment programme, national incomes policy, and the Budget was concentrated in one hand."[22]

It was paradoxical that the increased attention given to the adequacy of the machinery of economic planning should mark the beginning of a shift away from planning towards greater reliance upon the free market system based on the progressive abandonment of physical controls and their replacement by the global controls of fiscal and financial policy. Beer observes that the Government had, "more and more turned away from direct control by public administration and towards indirect control by manipulation of the market. From physical planning it turned to economic management."[23] In explaning the shift away from planning, apart from

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21 Chester, (ed.) The Organisation of British Central Government, p. 328.

22 Daalder, op.cit., p. 223.

23 Beer, op.cit., p. 199.

technical and administrative difficulties such as lack of information (to which the Statistics of Trade Act 1947 was a response) account must in particular be taken of the proponents of planning's conception of it, their political commitment to it and the extent to which it was politically opposed.

The Labour Government's conception of planning was a limited one and its limited nature was reflected in the Government's practice of it between 1945 and 1947. As we have seen the Government place reliance on the existing machinery and instruments of economic planning during this period and such organisational reforms as were implemented were largely ad hoc responses to the successive economic crisis faced by the Government. Substantively, planning reflected a similarly limited conception, being neither comprehensive nor directed towards the attainment of long-term objectives. In particular the failure during this period to formulate policies for the distribution of manpower and the control of wages were the most serious omissions in overall economic policy.[24] Planning, moreover, was primarily directed towards the short-term objectives of a reduction of physical shortages and an improvement in the balance of payments. The first of these provided the basis for comprehensive long-term planning but once the pressure on resources was eased any wider concern with long-term economic objectives was largely abandoned. "The easing of shortages," Shonfield concludes, "was the sole rationale and purpose of planning."[25] The commitment of the Government to removing the controls as quickly as possible appeared to be confirmed by the Prime Minister who said, "we are not in favour of controls for their own sake ... while there are shortages there must be controls, in the interests not of sections of our people but

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24 A.A. Rogow, The Labour Government and British Industry, 1945-51, (1955) pp. 39-40.

25 A. Shonfield, Modern Capitalism, (1967) p. 238.

of the whole nation ... as these shortages disappear so controls can be relaxed."[26]

This lack of concern with long-term objectives was also reflected in the form of nationalisation adopted whereby largely autonomous public corporations were established with little attempt being made by them or the departments reponsible for them to sectorally integrate their policies. The same criticism was applicable to the formulation of policy by government departments. Little attempt was made to increase the degree of horizontal integration between them. Yet as Beer points out, "to be successful, physical planning would have required - as the Keep Left critics fully recognized in criticising "the autonomy of departments" - a high degree of centralized coordination and control in the machinery of government. There would have had to be some central department or agency with the power to direct and command other departments in accord with a unified and consistent system of plans."[27] The formulation of longer term policies was, however, largely left to the uncoordinated efforts of individual departments[28] and the main emphasis of economic planning came increasingly to be placed on short-term considerations. The nature of economic planning during this period is summarised by Daalder, "Planning was neither continuous nor detailed, except in specific sectors. It was remedial, rather than forward-looking. Ministers intervened, if politically necessary, when developments seemed to get out of hand. But if at all possible, "a habit of discussion and a disposition to seek agreement" took precedence over considerations of long-term targets and programmes."[29]

This failure to innovate and tendency to allow events to become the formative influence on policy suggest that the vagueness in specifying what

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26 Hansard 5th Sers. H.C. Debs. vol.430. col.889. 20 Nov. 1946.

27 Beer, op.cit., p. 201.

28 Shonfield, op.cit., p.

29 Daadler, op.cit., p. 224.

was entailed in the commitment to planning made in Let Us Face the Future was a consequence of a failure to analyse the issues and problems raised by that commitment rather than deliberate. The first definitive statement of the Government's conception of economic planning was not provided until the publication of the Economic Survey of 1947.[30] In the analysis of types of planning contained in the Survey a simplistic distinction was drawn between totalitarian and democratic planning, only the latter of which was, by the very nature of their presentation, politically supportable. The two were, it was argued, fundamentally distinguishable. "The former subordinates all individual desires and preferences to the demands of the State. For this purpose, it uses various methods of compulsion upon the individual which deprive him of the freedom of choice. Such methods may be necessary even in a democratic country during the extreme emergency of a great war. Thus the British people gave their war-time Government the power to direct labour. But in normal times, the people of a democratic country will not give their freedom of choice to their Government. A democratic Government must therefore conduct its economic planning in a manner which preserves the maximum possible freedom of choice to the individual citizen."[31] This definition of democratic planning promoted by the Government therefore recognized important limitations on both the procedure and substance of planning which, it was argued, were further extended by Britain's "special economic conditions," the complexity of the industrial system, the pluralism of British society and the dependence of the economy on world trade."[32]

Economic planning, as analysed in the Economic Survey of 1947, was therefore conceived of as being of a largely indicative nature. Rogow comments that, "It is clear from the 1947 Economic Survey that the Labour Government had early rejected the idea of integrated planning, and with it the idea of a strong Planning Ministry. While it was frequently argued that

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30 Cmd. 7046 (1947).

31 ibid., p. 5.

32 ibid.

systematic planning was impossible in a country so much influenced by external circumstances, it is also apparent that the Government, for political and perhaps for administrative reasons, did not wish to carry out a policy of positive and detailed economic regulation which would have been necessary to reach stated planning goals."[33] Although subsequent surveys were regarded as an integral aspect of the Government's approach to planning, less and less emphasis came to be placed on their indicative aspects. Chester states that, "the language used in the surveys tended to get more cautious and tentative each year ... [and that] moreover, there was an increasing tendency for the Survey to be a review of the past year with some general reflection on the problems to be faced in the future."[34] Recognition of the diminishing importance attached to the Surveys and planning is implicit in Morrison's comment that although, "most people thought of the [first] Economic Survey as a plan or programme ... as time went on fear that these characteristics of the Survey lessened."[35] An important link therefore existed between the Government's conception of planning and its substance. As Rogow states, "given this planning concept, controls could be kept to the minimum, long-term planning could be largely dispensed with, and the Government freed from the burden of detailed economic regulation. It was towards this goal of essentially liberal planning that the Labour Government was moving throughout its period of office and with considerable speed between 1948 and 1950."[36]

The shift towards reliance upon the free market system was, however, not solely explicable by the Government's initially limited conception of planning. Account must also be taken of the strength of the Government's commitment to it and of more general political support for and opposition to it. Crosland emphasises the importance of its proponents' political

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33 Rogow, op.cit., p. 24.

34 Chester, op.cit., pp. 357-8.

35 Morrison, op.cit., p. 315.

36 Rogow, op.cit., p. 25.

commitment and of political opposition to it in arguing that the technical and administrative difficulties faced by the Government were a relatively unimportant factor in its failure to engage in more comprehensive planning. "The vital lack," he points out, "in nine cases out of ten, ..., is in will-power and determination - in the face of vested interests, pressure groups, indifference, electoral opinion, and back-bench revolts. That is, the failure was essentially a political one, which reflects the difficulty of planning in a democratic society."[37] Planning despite its essentially rational nature, is nevertheless part of the political process and is therefore as much open to the conflicts and compromises inherent in that process as is any other form of government activity. "Plan rationality clashes with social reality in a special way. As a claim to certainty, plan rationality always implies an absolute claim to power. But reality resists such claims. Resistance and opposition do not disappear just because the ruling groups want to see them disappear; the plan that does not tolerate contradiction does not for this reason remain uncontradicted. Thus, any real plan rational behaviour must conclude many a compromise with reality."[38]

The most commonly quoted form of political opposition to comprehensive planning was the hostility of the trades unions to the planning of wages and the distribution of manpower. Beer goes as far as to conclude that, "the principal cause" of the shift to economic management "was the resistance of trade unions to government control over the movement and compensation of labour. A system of physical planning that expresses its objectives in quantitative programmes must be able to include manpower in these programmes ... If these manpower programmes cannot be carried out, some more relaxed method of planning will have to be adopted. In Britain between 1947 and 1950, the attitude of the unions obliged the planners gradually to move to this conclusion."[39] While the hostility of the trades

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37 C.A.R. Crosland, The Future of Socialism, (1956) p. 502

38 R. Dahrendorf, Essays in the Theory of Society, (1970) p. 228.

39 Beer, op.cit., p. 200.

unions was undoubtedly an important aspect of the shift from planning it is doubtful whether that shift is totally explicable in terms of the simple causal relationship offered by Beer. As is pointed out by Panitch, "there can be no doubt that the intransigence of many union leaders to diminution of their authority by state interference with collective bargaining was a limiting factor on economic planning. But it is incorrect to attribute the failure of the Labour Government to engage in comprehensive economic planning to this one limitation."[40] In particular, it is significant that Beer's analysis is based on the years between 1947 and 1950 and that it therefore ignores the formative period of the Labour Government's attitude to planning, during which the control of wages and manpower was not attempted and was moreover, condemned in the Economic Survey of 1947 as being incompatible with democratic planning.[41] The reintroduction of manpower budgeting and some direct controls over labour was only brought about as a result of the fuel crisis and was accompanied by a statement of the Government's doubts about the impact of a wages policy on the distribution of manpower.[42]

Neither was political opposition confined to the trades unions. Industry became increasingly opposed to the maintenance of controls once it became evident that there was little likelihood of a recurrence of the depression with the attendant problems of the restriction of production and the maintenance of prices to which it would have given rise. Rather, the problem faced by industry was how to expand production as quickly as possible against the background of which the maintenance of controls appeared unnecessarily burdensome and increasingly irrelevant. Confronted by growing opposition from industry and dependent upon its assistance in

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40 L. Panitch, Social Democracy and Industrial Militancy, the Labour Party, the Trade Unions and Incomes Policy 1945-74 (1976) p. 18.

41 Supra., and see Rogow, op.cit., p. 39.

42 Panitch, op.cit., p. 12.

the pursuit of its economic policies, the Government appeared unwilling to contemplate the continued imposition of detailed controls. Nor was there any countervailing pressure in favour of the continuation or extension of economic planning. Rather, after 1947 the manifest failure of the planning system to identify the successive economic crises in sufficient time to take remedial action and the austerity occasioned by the controls provoked a scepticism about its value and a general reaction against their maintenance. Moreover the Government's practice of planning came under attack from liberal economists who argued that the degree of compulsion inherent in national economic planning was fundamentally incompatible with a liberal democracy.[43]

The shift from physical planning to economic management was not an immediate one. Faced in 1947 with the difficulties of the balance of payments and inflation the Government compromised between the two approaches and combined a disinflationary fiscal and financial policy with strengthened physical controls in an attempt to increase exports and restrain domestic demand. Thereafter the Government steadily lost faith in economic planning and progressively reduced its reliance on physical controls, a process which culminated with the "bonfire of controls" in November 1948. The transformation in the Government's approach to the economy does not therefore appear to have been as much the conscious product of deliberation and calculation as the largely unintended outcome of a social process centred upon the factors we have examined above.

(ii) The Legislative Basis of General Control Over the Economy

Although the Labour Government entered office possessing greater economic and legal powers over the economy than any previous peacetime government, these powers were not disproportionate to the size of the task of reconstruction which it faced. In addition to the indirect controls

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43 See for example J. Jewkes Ordeal By Planning (1948)

of taxation and spending the Government retained many of the direct physical controls over the economy which had first been imposed during the war. Renewed authority for their exercise in the post-war period was, however, required as a result of the expiry of the Emergency Powers (Defence) Act, 1939, in February 1946. It was Morrison states, "urgent ... to have appropriate authority for that economic planning and control which we regarded as vital if we were to achieve a successful transition from war to peace."[44]

The requisite authority was provided initially by the Supplies and Services (Transistional Powers) Act, 1945. Section 1(1) of the Act empowered the Government to maintain, control and regulate supplies and services for the purposes of;

"(a) [securing] a sufficiency of those supplies and services essential to the wellbeing of the community or their equitable distribution or their availability at fair prices; or

(b) [facilitating] the demobilisation and resettlement of persons and to secure the orderly disposal of surplus material; or

(c) [facilitating] the readjustment of industry and commerce to the requirements of the community in times of peace; or

(d) [assisting] the relief of suffering and the restoration and distribution of essential supplies in any part of His Majesty's Dominions or in foreign countries that are in grave distress as a result of war."

The Act did not authorise the making of new regulations but only the continuation of such of the expiring Defence Regulations in Parts III and IV of the Emergency Powers (Defence) Act, 1939,[45] as were considered "necessary or expedient" for the specified purposes. Although the Act was more restrictive in scope than the Emergency Powers (Defence) Act, certain

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44 Morrison, op.cit., p. 235.

45 Parts III and IV contained the most important Defence Regulations in relation to the economy. Part III covered Shipping and Aircraft and Part IV Essential Supplies and Work.

of its provisions were considerably broader than the corresponding provisions of its predecessor. As Robson points out, "while the new Act is far less comprehensive than the Emergency Powers Acts, it is much wider in scope so far as supplies and services are concerned."[46] In particular, whereas the Emergency Powers (Defence) Act had required the annual approval of both Houses of Parliament, the Supplies and Services (Transistional Powers) Act was to remain in force for a period of five years. The Government based its justification for this extension on the arguments that were approval to be required annually the House of Lords might use its powers under the Parliament Act, 1911 to delay the granting of the requisite approval thereby invalidating many of the Governments powers in relation to the economy which, since the transistional period would last for at least five years, would prevent the Government formulating a consistent policy for the whole of that period. The capacity of the House of Lords to obstruct therefore appears to have had an indirect influence on the framing of the legislation.

The wording of individual provisions also revealed the extent of which the Act was materially broader. Whereas the Act of 1939 referred to the "maintenance of supplies and services essential to the life of the community"[47] the corresponding provision of the Act of 1945 referred to the "maintenance, control and regulation of supplies and services essential to the well-being of the community."[48] These changes suggested not only an increase in the supplies and services in relation to which the power would be exerciseable but also an increase in the purposes for which it would be exerciseable.

Although the legislation had been framed with specific regard to the powers which would be required to control the economy during the post-war

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46 W.A. Robson, "Controls During the Transistion Period," 1946 (9) M.L.R. pp. 177-8.

47 Section 1(1).

48 Section 1(1).

transistional period the Government remained sufficiently unconvinced of its adequacy for that purpose to seek its amendment by the Supplies and Services (Extended Purposes) Act, 1947. Whereas the power of the House of Lords appears to have been one of the influences on the drafting of the Act of 1945 in the case of the Supplies and Services (Extended Purposes) Act the power of the courts to declare the exercise of powers ultra vires appears to have been of particular importance in its inception. Section 1(1) of the Act provided that in so far as the operation of the regulations was limited, expressly or impliedly, to the purposes mentioned in section 1(1) of the Act of 1945 the extent of their operation was to be extended to include their exercise for the purposes of;

"(a) ... promoting the productivity of industry, commerce and agriculture;

(b) ... fostering and directing exports and reducing imports, or imports of any classes, from all or any countries and for redressing the balance of trade; and

(c) generally .., ensuring that the whole the resources of the community are available for use, and are used, in a manner best calculated to serve the best interests of the community." The Supplies and Services (Defence Purposes) Act, 1951 further extended the purposes for which the regulations were exerciseable to include the defence of any part of the Dominions and the maintenance or restoration of peace and security in any part of the world.

The taking of such broad powers of control over the economy in peacetime has considerable implications for economic law and represents a significant shift from the pattern of gradual statutory development in relation to individual sectors of economic activity and administration which we have observed as characteristic of the inter-war period. Professor Allen comments that, "the provisions of these three Acts, taken together, probably represent the high water mark of governmental powers in the whole

history of English legislation ... In their economic aspect, it is clear that the phrase "in a manner best calculated to serve the interests of the community" gave carte blanche to executive discretion ... No charter so unrestricted has ever before been conferred by legislation not even in times of war."[49]

In determining the extent to which this development represented a permanent shift in the legislative framework for controlling the economy it is important to recall that two of the Acts were directly related to exceptional circumstances. The necessity of the continuance of controls in the immediate post-war period was indisputable and the Supplies and Services (Transistional Powers) Bill had been first prepared by the Coalition Government. Subject to various amendments, most notably in respect of the period of its operation the Bill was enacted by the Labour Government. Similarly the Supplies and Services (Defence Purposes) Act, 1951, was enacted in the exceptional circumstances of the Korean War.

The Act which gave rise to the greatest controversy was the Supplies and Services (Extended Purposes) Act, 1947. The controversy which it aroused was so great that King George VI sought an explanation of it from the Prime Minister.[50] It was enacted against the background of the successive economic crises which confronted the Government, ostensibly to clarify the extent of its powers and to exclude the possibility of their exercise being declared ultra vires by the courts. The explanations given by Ministers for its introduction were, however, inconsistent[51] and it raised Opposition fears that it, "would enable the Government to achieve a socialist revolution by Defence Regulation."[52]

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49 Allen, op.cit., (2nd ed. 1956) pp. 70-1.

50 Mackintosh, op.cit., (2nd ed.) p. 423.

51 Allen, op.cit.

52 Morrison, op.cit., p. 304.

Such claims must be treated with some scepticism. Although such legislation had originally been envisaged as a permanent feature of a planned economy as is confirmed by Professor Robson's comment that "the Supplies and Services (Transistional Powers) Act, 1945, is of great importance and interest not only because it makes provisions for the transistion from war to peace but also because it confers powers of a kind which are necessary at least in reserve, during a partial transformation of the national economy such as that which the Government is intent on achieving,"[53] by 1947, as we have seen, the Government's faith in its capacity to plan the economy had been seriously weakened.[54]

In analysing the significance of the Supplies and Services (Extended Purposes) Act, 1947, precedence ought therefore to be given to the context of a general increase in physical and financial controls in which it was enacted rather than any symbolic commitment to the attainment of socialism it may have been held to represent. The Times while giving expression to the fears aroused by Clause 1(1)(c) and warning against the possibility that, "dangerous words take the place of deeds," dismissed the Act as irrelevant to the problems faced by the Government and as having been introduced "to still the discontent of the left of the party."[55] Moreover the exercise of the powers continued to be governed by the perceived exigencies of the economic situation rather than a priori beliefs. Indeed political perspectives appeared to have minimal impact on the implementation of the legislation; the trend under both Labour and Conservative Governments being "largely one ... of relaxation, upon which were superimposed, fluctuations of alternative tightening and slackening,

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53 Robson, op.cit., p. 174.

54 A discussion of the political obstacles confronting the enactment of such legislation on permanent basis is to be found in Morrison, op.cit., pp. 305-6.

55 The Times, 13 Aug. 1947.

following the fluctuating fortunes of the fuel situation and the balance of payments."[56] It was not until 1954 that the final important control, building licensing, was abolished.

(iii) General Economic Policy Between 1945 and 1951

Between 1945 and 1951 the Government confronted a variety of economic problems and pursued a number of differing and sometimes incompatible policies in response to them. In the fulfillment of its political commitments to the maintenance of full employment and the establishment of the welfare state it actively sought control of the inflationary pressure which was endemic within the economy, a healthy foreign trade balance, the maintenance of the value of the pound and the reconversion and modernisation of industry to increase productivity and exports. The extent to which these objectives were interrelated made it inevitable that their simultaneous pursuit would introduce an element of inconsistency into overall economic policy. The Government, "in pursuing so many objectives at once ... could not help, in common with all other post-war Governments, promoting measures which pulled in different directions.[57]

(a) The Control of Inflation

As has been seen the Government only gradually adopted budgetary and financial techniques of economic management, reliance in the immediate post-war period being placed primarily on physical controls. Although reliance on physical controls was probably congruous with the Government's commitment to planning the background of their application rendered them insufficient as a means of global economic regulation. "There is little doubt that the use of physical planning methods as a peace-time device was more congenial to the socialist philosophy of public ownership and direction particularly as it emerged from the debates on planning in the 'thirties. This time, however, the background was one of reconstruction and inflationery pressure rather than recovery from depression."[58]

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56 G.D.N. Worswick, Direct Controls, in Worswick and Ady op.cit.,p. 284.

57 Pollard, op.cit., pp. 366-7.

58 Winch, op.cit., pp. 293-4.

The inflationary pressure within the economy was primarily a result of deferred expenditure and compulsory saving during the war. Thereafter it was fuelled partly by the continuation of the policy of "cheap money" and partly by the economy's dependence upon external trade which made the then current worldwide inflation unavoidable.[59] Initially the Government attached comparatively little importance to the control of inflation, policy instead being concentrated on the raising of production and exports and the avoidance of unemployment. Price controls and physical controls over the availability of goods continued to be used in its containment but little recourse was had to the inflationary gap analysis in an attempt at its eradication.[60] It did not achieve prominence until the economic difficulties of 1947 and Hugh Dalton, in his budgets of that year argued that it had to be tackled not only by controls but also by a policy of budgetary disinflation.

This change in economic policy continued under Stafford Cripps as Chancellor of the Exchequer and signified the return of both fiscal and financial controls and of the Treasury to the position from which they had been displaced. This change had important consequences. Firstly, the use of disinflationary budgetary policy to restrict domestic consumption, control inflation and channel resources into exports and investment meant the continuation of domestic austerity. Once physical controls were relaxed in the face of increasing political opposition to that austerity, fiscal policy, financial policy and, after the abandonment of the "cheap money" policy and the subsequent rise in interest rates, monetary policy

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59 While commentators agree that the "cheap money" policy was a factor in the exacerbation of inflation they differ on the importance to be attributed to it. The most sympathetic assessment of the policy is that of Pollard, op.cit., pp. 368-74. For the converse view see Youngson, op.cit., pp. 159-61. Winch concludes that "the real lesson of the cheap money episode ... is that it further demonstrates ... the lack of emphasis placed by the Labour Government in this period on techniques of overall management." op.cit., p. 295.

60 Winch, op.cit., p. 294.

were left as the main instruments of economic policy. Secondly, despite the determined use of budgetary methods to restrain demand, the maintenance of full employment gave rise to persistent upward pressure on wages and prices and forced the Government to search for a means of controlling wages.

The lateness of the Government's attempts to formulate a wages policy clearly illustrates the partial scope of its previous attempts at economic planning and the extent to which a Government which is not committed to planning the whole economy may nevertheless be compelled to resort to greater intervention in an attempt to resolve the problems inherent in its pursuit of related objectives of economic policy, in this case full employment and the control of inflation. The "democratic" approach to planning based on cooperation and consultation rather than compulsion espoused by the Government and its manifest reluctance to intervene in the detailed control of manpower indicated the likelihood of its rejection of legal regulation in its search for a policy on wages. Despite the avoidance of statutory intervention the wages policy formulated in 1948 is of significance not only because it is the first example of a policy which was to become a recurrent feature of the overall policies of successive governments and which was eventually to take statutory form, but also because the manner of its formulation closely parallels the intervention of the Government in industry generally during this period.

The initial approach of the Government had consisted largely of exhortations to the trades unions to observe wage restraint in return for price controls and subsidies coupled with declarations of intention not to intervene in the process of free collective bargaining. The exchange crisis of August 1947 emphasised the importance of maintaining domestic costs as low as possible in order to remain competitive in world markets and thereafter the Government moved rapidly towards the adoption of a

more public and more sharply defined position on the question.

On 4th February 1948 the Government issued its Statement on Personal Incomes, Costs and Prices[61] which although introduced by the Prime Minister is widely regarded as having been initiated by Stafford Cripps.[62] Although the Statement demanded the restriction of profits and rents to their existing levels its main emphasis was on the control of wages. Apart from a marked rise in the cost of living the only justification for wage increases, it argued, was increased productivity or the necessity of attracting labour to undermanned industries. It emphasised the desireability of reaching a voluntary settlement but, Panitch comments, "it was reinforced by a note of compulsion."[63] Firstly the Government would implement the principles of the Statement in its position as employer and secondly the incentive to employers to accede to increases would be removed by its refusal to take into account increased costs of production as a result of wage increases in setting controlled prices for goods.[64]

The formulation of the subsequent policy illustrates the opportunity afforded to affected interests to affect the content of the policy and the extent to which the Government's capacity was circumscribed by its dependence on securing their consent. Beer states that the bargain struck, "was remarkable as much for the way in which it was reached as for its content and results. The principle negotiators were three - the Government, organised labour and organised capital. The bargain was not itself embodied in any legislative instrument such as a Statute or statutory order. Yet it achieved a regulation of an important aspect of

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61 Cmd. 7321. 1949.

62 Panitch, op.cit., p. 22. Beer, op.cit., p. 205.

63 Panitch, op.cit., p. 22.

64 Prices continued to be regulated under the Goods and Services (Price Control) Act, 1941. The Price Control and Other Orders (Amendment) Act, 1951, indemnified the Board of Trade and the Ministry of Supply for their failure to lay 183 orders. See Allen (2nd ed.) op.cit., p. 167.

the British economy that no such legislative instrument by itself could have done. "Indeed, one may think of it as a kind of extra-governmental legislation."[65] Although the initiative had stemmed from the Government, once it had been made "consultation with both groups followed immediately, modifications were made to meet their objectives, and the policy was applied through their organisation."[66]

The agreed policy was specifically one of wage restraint rather than an integral feature of any wider attempt at planning. In return for a removal by the Government of the ceiling on food subsidies, agreement by employers to freeze prices and profits and the right to seek wage increases to maintain differentials and remedy low pay the General Council of the Trade Unions Congress endorsed the principles set out in the Government's Statement. Although the agreement worked on a purely voluntary basis and the government failed in its commitment to restrict price increases it "was effective in the sense that the regulation of behaviour stipulated by it remained in force for the better part of three years and greatly assisted the Government in its efforts to maintain economic equilibrium."[67] The unions, despite full employment and the shortage of labour, did not exploit their bargaining power and wage rates rose by only five per cent over the period of restraint.[68]

The combined policies of budgetary disinflation and wage restraint had considerable success in controlling inflation and increasing production and exports. The end of wage restraint and the effective failure of the Government's economic policy were heralded by the decision in September 1949 to devalue the pound by thirty per cent.[69] The initial response of the

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65 Beer, op.cit., p. 205.

66 Panitch, op.cit., p. 23.

67 Beer, op.cit., p. 205.

68 Winch, op.cit., p. 297.

69 Pollard, op.cit., p. 362.

General Council was to offer to freeze wages provided that the retail price index did not rise by more than five per cent. That response was, however, only narrowly supported by the membership and opposition to it increased with the rise in the cost of living as a result of devaluation. In June 1950 the agreement was abandoned. The benefits of devaluation were shortlived. The outbreak of the Korean War led to a worsening of the balance of payments and increased Government expenditure as a result of rearmament. The Government reintroduced many of the physical controls and sought a renewed period of wage restraint in return for enlarged subsidies and the promise of statutory dividend limitation. Before the Government could determine the response of the unions to this initiative it was defeated at the General Election of October 1951.

(b) Control of the Balance of Payments

The most serious economic problem confronting the Government at the end of the war was the problem of the balance of payments and in particular the problem of attaining an increase in exports sufficient to pay for the import of essential goods and materials. Authority for the regulation of both imports and exports had been taken immediately upon the outbreak of war. The Imports, Exports and Customs Powers (Defence) Act, 1939, empowered the Board of Trade to make such provision as it thought expedient for the regulation of the import and export of all goods. Under it a comprehensive system for the control of both imports and exports was established during the war.

After the war the Act remained in force[70] and the Government continued t control the import of goods mainly by means of a system of licensing and bulk purchase. In contrast, neither the volume nor the direction of exports

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70 Although the Act was a temporary measure its termination required the making of an order under section 9(3) certifying the end of the emergency which gave rise to it. Such an order was not made and the Act remained in force.

was directly regulated. Their increase was sought both by indirect means, which included the restriction of domestic consumption and the preferential allocation of materials to export industries, and by the provision of direct assistance to exporters which was "designed to encourage, rather than to force, the business man into the desired activity."[71]

As we have seen the importance of reestablishing the export trade had been recognized by late 1944 and the reconversion of some industries to production for exports had begun in early 1945. This increased concern with exports was reflected in the enactment in March 1945 of the Export Guarantees Act, which increased the limit of Board of Trade guarantees to exporters against the commercial risk of non-payment from £75 millions[72] to £200 millions[73] and extended the purposes for which guarantees could be given to include the encouragement of participation by the United Kingdom in external trade transactions.[74] The financial limits on guarantees were further increased by the Export Guarantees Act, 1948, before being finally fixed by the consolidating and amending statute, the Export Guarantees Act, 1949, at £500 millions in the case of general guarantees and £100 millions in the case of "special" guarantees.[75] British exporters who were insured with the Export Credits guarantees Department were additionally assisted by being exempted from the prohibition of the extension of credit beyond six months to foreign importers contained in section 23 of the Exchange Control Act, 1947. These measures formed an

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71 Rogow, op.cit., p. 32.

72 Export Guarantees Act, 1939, s.1(1).

73 S.1(1).

74 S.2: a limit of £15 millions was imposed on guarantees under this section.

75 Sections 1 and 2. . The Export Guarantees Act, 1951, was an interpretation statute with retrospective effect which enabled the Board of Trade, on behalf of the Export Credits Guarantee Department to guarantee contracts entered into by overseas subsidiaries of United Kingdom firms.

important part of the export drive which led to an increase of 77 per cent in real terms of exports between 1946 and 1950.[76] Although that increase represented a considerable feat it was not enough to overcome the problem of the balance of payments and insufficiently uniform to solve the persistent problem of the dollar shortage.

The problem of the balance of payments raised the question not only of payment for foreign imports but also of the maintenance of the value of the pound.[77] The continued vulnerability of the pound after the war necessitated the maintenance of the comprehensive system of exchange control which had first been imposed in 1940 and it was initially continued by the Supplies and Services (Transistional Powers) Act, 1945 before being placed on a permanent basis by the Exchange Control Act, 1947. The Act was described by the Times as "a Draconian measure," which, "follows the streamlined pattern, that is to say, it takes powers for controlling and prohibiting far more than it could conceivably be desireable to control and prohibit in practice."[78] Section 1 of the Act gave the Treasury control by means of the granting or withholding of its consent over the whole range of foreign payments including transactions in gold or foreign currency in the United Kingdom or involving United Kingdom residents and all financial transactions between United Kingdom residents and persons resident outside the Sterling Area. Despite the comprehensive nature of the prohibition contained in the Act, it was not completely successful in preventing the occurrence of adverse capital movements which continued to occur largely because of the inadequacy of the systems of exchange control operated by countries within the Sterling Area within which the prohibition on transactions did not apply.[79]

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76 Pollard, op.cit., p. 362.

77 Supra.,

78 The Times, 14 Nov. 1946, quoted in F.A. Mann, The Exchange Control Act, 1947. 1947 (10) M.L.R. p. 413.

79 Rogow, op.cit., pp. 33-4.

(c) Control of Investment

The Keynesian analysis of investment emphasised not only the counter-cyclical use of public investment but also the importance of central government being able to influence the value, timing and direction of investment in the private sector.[80] Between 1945 and 1951 as much emphasis came to be laid on the latter function as had initially been laid on the former. This change was largely a result of the absence of a post-war slump, the rise of the disinflationary analysis and the importance attributed to increasing exports and therefore investment in selected industrial sectors to solve the problem of the balance of payments. In addition to general budgetary policy, the value, direction and timing of capital investment was influenced by the operation of both physical and monetary controls.

The most important physical control over capital investment was the regulation of industrial building through a licensing system. The system of building licensing was originally introduced by Defence Regulation 56A made under the Emergency Powers (Defence) Act, 1939 and was continued after the war by the Supplies and Services (Transistional Powers) Act, 1945 in the form of successive Control of Building Operations Orders until its termination in 1954. Government control was also exerciseable over the direction of capital investment. It had first been introduced under the Defence (Finance) Regulations and was continued and extended by the Borrowing (Control and Guarantees) Act, 1946. Section 1 of the Act empowered the Treasury to control access to the capital market. It provided in particular that the secural of the consent of the Treasury was a condition precedent to the borrowing of sums in excess of £10,000 or the raising of capital by share issue of sums greater than £50,000, in any

80 Grove, op.cit., p. 476.

twelve months. In the case of the latter the grant or the refusal of the Treasury's consent was dependent upon the advice of the Capital Issues Committee which was placed on a statutory basis by the Act and which acted in accordance with general directions issued by the Chancellor of the Exchequer. Its main function "was to deny new funds to enterprises supplying inessential goods to the home market. Thus distribution, entertainment, insurance, hire-purchase and banking were rigorously excluded from the capital market while export-earning, import-saving and basic industries were accorded top priority."[81]

It should be emphasised that these two controls did not amount to a comprehensive system for the regulation of private capital investment. The system of building licensing only concerned one form of industrial investment, others such as investment in plant and machinery being practically unrestricted.[82] Similarly control of capital issues only covered one source of new investment and did not cover, for example, the use of a firm's internal resources which became one of the main sources of investment finance during this period.[83] Scrutiny, moreover, of the uses to which funds were put tended to be summary and no attempt was made to discriminate between investment purposes through, for example, the fixing of financial ceilings for different types of investment. Apart from the limitations on the scope of the operable controls the system itself had other weakenesses the most important of which was its negative nature. Both controls could restrict investment but the question of its stimulation remained largely unconsidered.[84]

Developments did, however, occur in relation to the provision of financial assistance to companies encompassing the creation of new

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81 Rogow, op.cit., pp. 27-8.

82 ibid., p. 27.

83 ibid,, p, 28,

84 Grove, op,cit., p. 479.

institutions and legislative intervention. The difficulties experienced by companies during the inter-war period in raising sums below £200,000 which were described as the "Macmillan gap" gave rise to a proposal from the Governor of the Bank of England, Lord Catto, in October 1944 for the establishment of two companies for the provision of finance to industry.[85] His proposals were accepted by the Coalition Government and in February 1945 the Industrial and Commercial Finance Corporation was established to provide intermediate credit for small firms. Three months later the Finance Corporation for Industry was established to assist long term schemes of industrial reorganisation and reconstruction involving capital requirements on a scale, or under conditions, which could not be met on the capital market. Whereas the I.C.F.C. was completely financed by the private sector, half of the initial finance of the FCI was provided by the Government through the Bank of England.

These two developments were supplemented by Section 2 of the Borrowing (Control and Guarantees) Act, 1946 which empowered the Treasury to guarantee expenditure of up to £50 millions in any twelve months for the purpose of facilitating the reconstruction or development of any industry in Great Britain. This provision reflected the widespread fears of a post-war depression and was specifically conceived of as "an anti-slump weapon."[86] These fears proved unfounded and the section was never used.

(d) Overseas Development

Between the wars the colonial territories suffered the same problems of declining markets and mass unemployment which afflicted the economies of the industrialised nations. The instability of the markets for their products and the depression of world commodity export prices increased their indebtedness and exacerbated the social and economic distress they faced as a result of the narrowness of the economic base upon which

85 Addison, op.cit., p. 253.

86 H. Dalton, High Tide and After: Memoirs 1945-60 (1962) p. 96.

their rapidly expanding populations were dependent.

Before 1929 no consistent policy underlay the provision of imperial assistance in the economic development of the colonies and assistance mainly took the form of loans and was provided on an ad hoc basis. The Colonial Development Act, 1929 authorised a maximum annual expenditure of £1 million on the promotion of colonial economic development and "was the first real attempt to formalize the ... ad hoc approach to colonial development. Colonial assistance was now given only after a systematic examination of all schemes and projects put forward by colonial governments. The Act introduced a greater degree of self-consciousness and systematization. It also created the machinery for the examination of all projects. More important, however, it introduced an entirely new concept of colonial development in which the provision of annual grants and loans could prove mutually advantageous to the United Kingdom and to the colonial territories."[87] The organising principle underlying the conceptualisation of colonial economic development as mutually advantageous was, however, the economic advantage of the United Kingdom and in particular the expansion of the rapidly declining capital goods markets and hence the relief of domestic unemployment. The impetus for the legislation stemmed from the immediate pressures of domestic unemployment rather than the long-term considerations of colonial development. "Far from being a specific objective of the Act, colonial development was envisaged rather as a means by which to achieve the more immediate objectives of reducing the level of unemployment at home and of stimulating British exports." The Act was, Abbot continues, "conceived and administered as an extension on the overseas front of the Government's all-out attack upon the domestic problems of rising unemployment and falling export markets."[89]

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87 G.C. Abbot, A Re-examination of the 1929 Colonial Development Act 1971, (24) Economic History Review, p. 70.

88 ibid., p. 71.

89 ibid., p. 80.

The administration of the Act was similarly governed by domestic considerations, expenditure under the legislation being reduced in accordance with the policy of financial stringency. The social and economic distress suffered by the colonies was not alleviated by the legislation[90] and in the West Indies the waves of strikes and social unrest which accompanied their worsening problems led to the appointment of a Royal Commission. Its Report,[91] Ady comments, "forced the recognition that those islands constituted a "depressed area" of the Empire,"[92] and emphasised the interdependence of the economies of the colonies and the industrialised nations. The Report led to a review of colonial policy and the amendment of the legislation. Overall, its emphasis shifted from the relief of domestic unemployment to the promotion of colonial economic development alone. Politically however the two strands of policy proved difficult to separate and the relief of domestic unemployment although dormant for a considerable period was to re-emerge as an important consideration in determining the nature and form of colonial assistance.

The Coalition sponsored Colonial Development and Welfare Act, 1940 remitted £11 millions of colonial indebtedness, increased the limits on expenditure and extended the objectives of the Act to include the promotion of the development of the resources of any colony or the welfare of its people. The war increased the interdependence of the British and colonial economies and the amending Act of 1945 further extended the limits on expenditure to £12 millions in any one year. That interdependence continued to increase during the post-war period as a result of the dollar shortage and the devaluation of the pound which improved the terms of trade within the Sterling Area and policy during this period reflected

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90 Abbot suggests that it may have served to worsen their position by increasing their indebtedness.

91 Report of the Royal Commission on the West Indies, Cmd. 6607, 1939.

92 P.H. Ady, Britain and Overseas Development, in Worswick and Ady, op.cit. p. 562. The successive descriptions of the stage of economic development of colonies, as "depressed," "backward," "underdeveloped," and "developing" exemplifies the same progression as was seen in relation to the problem of the depressed areas in the United Kingdom.

these considerations and in particular the desireability attached to increasing trade within the Sterling Area. The Overseas Resources Development Act, 1948 attempted to accelerate this process and to overcome the problem of low investment in the colonies through the establishment of two wholly Government owned corporations; the Colonial Development Corporation which was charged with direct productive investment in the development of the resources and trade of, and the expansion of the production of foodstuffs and raw materials in, colonial territories, and the Overseas Food Corporation which was charged with the promotion of the products of foodstuffs and agricultural products outside the United Kingdom.[93]

These initiatives were additional to the continuation and expansion of existing policies, expenditure on which was successively increased by the Colonial Development and Welfare Acts, 1949 and 1950 to £25 millions in any one year. The attempts by the Colonial Development Corporation to increase productive investment were supplemented by the Colonial Loans Act, 1949 which authorised the Treasury to guarantee loans in aggregate of £50 millions from the International Bank for Reconstruction and Development to colonial governments, for purposes likely to promote the development of their resources. In addition the Overseas Resources Development Act, 1949, amended section 12(2) of the Act of 1948 to enable the Treasury to guarantee charges other than thepayment of principal and interest on loans made by the International Bank to the Colonial Development Corporation and the Overseas Food Corporation. These initiatives, however, fell considerably short of the estimated capital requirements of the territories.[94]

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93 The O.F.C. was largely unsuccessful and responsibility for its activities was transferred and its objectives restricted, by the Overseas Resources Development Act, 1951.

94 Ady, op.cit., pp. 569-72.

11. INDUSTRIAL POLICY BETWEEN 1945 AND 1951.

Introduction

The Labour Government rationalised the shift towards greater reliance on the free market system which took place after 1947 as being intended to secure the maximum possible freedom of choice for the individual and therefore as being compatible with its "democratic" approach to planning. Despite its professed intention to remove the controls as quickly as was commensurate with the perceived exigencies of the economic situation it could nevertheless argue that their abandonment did not represent a renunciation of its commitment to planning the economy. The de facto abandonment of the instruments of planning preceded their ideological abandonment.[1] The purpose of the doctrine of "democratic planning" as expounded in the Economic Survey of 1947 was, however, not solely to act as a rationalisation for the Government's progressive abandonment of comprehensive planning after 1947. It was also definitive and expressive of its approach to the question of its relationship with industry. The summary by the initiator of "democratic planning," Stafford Cripps, of its essential elements as being a minimum of compulsion and a maximum of "agreement, persuasion, consultation and other free democratic methods"[2] was equally applicable to the policy of "voluntarism" which the Government adopted in its dealings with private industry, for which Stafford Cripps was also largely responsible. In emphasising cooperation and non-coercion the Government was articulating principles which had been tacitly observed by its predecessors, and which were reflected in the form and content of economic legislation. Their underlying assumptions and the reasons for their espousal and development to form the doctrine of "voluntarism" therefore merit further examination.

Hayward argues that generally speaking an emphasis on cooperation and a reluctance to coerce were a product of "a pluralistic conception of authority [which] meant that a nominally sovereign government was inhibited

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1 J. Leruez, Economic Planning and Politics in Britain, (1975) p.65.

2 Hansard, 5th Sers. H.C. Debs. Vol. 474, col. 39. 18 Apr. 1950.

about using its power without first obtaining consent to its actions from those over whom it was exercising power."[3] The same point is made by Shonfield in relation to the post-war Labour Government. "The striking thing in the British case is the extraordinary tenacity of older attitudes towards the role of public power. Anything which smacked of a restless or over-energetic state, with ideas of guiding the nation on the basis of a long view of its collective economic interest, was instinctively the objective of suspicion."[4]

This predisposition to cooperation occasioned by general political attitudes towards the use of public power was reflected in the attitudes of both the Government and industry. The latter had discovered the advantages of cooperation during the war and was confronted by a Labour Government the size of whose majority effectively precluded, initially at least, overt political opposition, while, "Government Departments and Ministers believing that an ounce of willing cooperation was worth a ton of compulsion, set themselves out to establish friendly contacts and consultations and to use their compulsive powers as little as possible."[5] Both their attitudes were moreover shaped by self-interest. Industry was dependent on the Government for ensuring economic recovery and the avoidance of a recrudesence of depression and the Government was dependent on industry for the success of its economic policies and the fulfillment, in particular, of its commitment to full employment and economic expansion. Its preference for cooperation was further strengthened by its failure, apart from nationalisation and "a rather crude anti-monopoly policy" to formulate specific policies towards private industry before entering office. "The Labour Movement as a whole, both its industrial and political wings, had traditionally given far less study to the private than to the anticipated public sector. For more than a generation nationalisation had been the focus of Labour's industrial policy, and debates at Party Conferences had

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3 J. Hayward, Change and Choice: The Agenda of Planning, in J. Hayward and M. Watson, (eds.) Planning, Politics and Public Policy, (1975) p. 14.

4 Shonfield, op.cit., p. 88.

5 P.E.P. Broadsheet, Government and Industry, vol. XVIII, no. 318. Sept. 1950.

been largely devoted to the selection of suitable industries and the working out of detailed plans for public ownership. The private sector it was tacitly assumed, would rapidly wither away once Labour was voted into power."[6]

The failure of the Government to determine its industrial policy before entering office and its adoption of the doctrine of "voluntarism" had important consequences. Firstly, the development of industrial policy was pragmatic and largely uninfluenced by a priori beliefs. The only factors which were important were those which were fundamental to the doctrine of "voluntarism" itself. Of these the emphasis on consultation and cooperation afforded considerable scope for the exercise of influence on policy by affected interests during its development. Secondly and relatedly, the emphasis on cooperation placed agreement and compromise at a premium and effectively compelled observance of the limits set by the extent of the consensus existing between the parties thereby precluding the adoption of ends or means regarded as unacceptable by either of them. Hayward's summary of the experience of the Labour Government during the nineteen sixties is apposite in relation to its post-war predecessor. "The Government bent its energies towards consulting primarily with a view to persuading those it was unwilling or unable to coerce. The initiative was thus surrendered to business organisations and trade unions who were elevated into the status of corporatist veto groups, capable of frustrating public policy or at least modifying it so that it became acceptable."[7] Thirdly and finally the emphasis placed on consensus gave rise to "a preoccupation with tactical, short-term improvision rather than strategic long-term planning"[8] which not only, as we have seen, infused its approach to economic planning, but also in the context of the economic difficulties faced by the government and its dependence on industry for the success of economic policies reinforced the emphasis placed on proceeding by agreement.

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6 Rogow, op.cit., p. 73.

7 Hayward, op.cit., p. 18.

8 ibid.

The development of industrial policy was therefore surrounded by a complicated circularity. Its primary component, the doctrine of voluntarism, was a product of short-term pragmatic considerations which circumscribed the options open to the Government in the formulation of policy but which was further reinforced by the continuing economic difficulties surrounding the Government. The development of policy during this period will be analysed through the examination of four areas; nationalisation, sectoral policies, development councils and restrictive trade practices and monopolies.

(i) Nationalisation

In considering the scope and the implementation of the Government's nationalisation programme it is important to recall that the case for public ownership and control of certain activities had been accepted before the war and that the extension of nationalisation proposed by the Labour Government did not therefore necessarily assume the dimensions of acute political controversy which are frequently associated with it. The granting to the Ministry of Supply by the Atomic Energy Act 1946 of a monopoly in the development and exploitation of atomic energy, for example, was unopposed by the Conservative opposition on the grounds that the scale of capital investments required would make its exploitation by private capital unprofitable.[9] Similarly the nationalisation of Cable and Wireless Ltd. was supported by both parties as a means of increasing imperial unity in the face of the increased power and influence of the U.S.A.[10]

Nor did the issue of nationalisation necessarily divide neatly along party lines. The history of the civil aviation air transport industry during this period provides an example. The publicly-owned monopoly, the British Overseas Airways Corporation, had been established by the Conservative-dominated National Government in 1939.[11] During the war the Coalition

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9 Harris, op.cit., p. 203.

10 Cable and Wireless Act 1946, Brady, op.cit., p. 284.

11 British Overseas Airways Act, 1939 s.1.

Government intervened to assist the post-war recommencement and expansion of the industry and in October 1944 a Minister of Civil Aviation was appointed and charged by section 1 of the subsequent Ministry of Civil Aviation Act, 1945 with the duty of "organising, carrying out and encouraging measures for the development of civil aviation [and] for the designing, development and production of civil aircraft..."

In making proposals for the future of the industry the Coalition Government recommended the establishment of separate corporations with different fields of operation.[12] This proposal was substantially implemented by the Labour Government which established two new corporations, the British European Airways Corporation and the British South American Airways Corporation, in addition to the existing British Overseas Airways Corporation, by the Civil Aviation Act, 1946.[13] Considerable assistance was also provided both to the air carriers in the form of grants[14] and to the aircraft manufacturers. In the case of the latter the most important form of assistance was launching aid; an interest free contribution to the launching costs of an aircraft or an engine repayable as a levy on sales provided under section 1 of the Act of 1945.[15]

The substantial implementation of the previously agreed recommendations of the Coalition Government did not ensure, however, the support of the Opposition and the enactment of the Act of 1946 was vigorously opposed. The extent, however, to which the grounds of opposition differed and contradicted each other, some Conservatives attacking the measure as perpetuating public ownership, others as a failure to seize the advantage of the opportunity to create a cartel of all forms of transport,[16] illustrates not only the speed

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12 Cmd. 6712, 1945.

13 This degree of separation was reduced by the merger of BSAAC and BOAC by the Airways Corporations Act, 1949 which was later repealed by the consolidating Air Corporations Act, 1949.

14 Civil Aviation Act, 1946. ss. 11-16.

15 Supra., Section 1 was later re-enacted as section 1 of the consolidating statute; the Civil Aviation Act, 1949.

16 Harris, op.cit., p. 204.

with which political perspectives were liable to revision but also the absence of sharply defined perspectives on the question of public ownership capable of classification solely on the basis of party divisions in the immediate post-war period.

(a) The Bank of England

The proposed change in the legal status of the Bank of England was not politically divisive. The leadership of the Conservative Party was initially in favour of it[17] and although the Party later formally opposed it, it did so on the grounds that the measure wasted parliamentary time rather than on the correct liberal grounds that the control of finance should be independent of the State. The lack of fundamental concern displayed by the Conservative Party reflected the approach of the Government. Its pronouncements and actions suggested that it approached the question solely in terms of the fulfillment of a manifesto commitment. In particular, there was no evidence to suggest that it regarded the nationalisation of the Bank as the foundation stone of a planned economy.

Apart from the question of compensation, the nationalisation of the Bank raised the questions of the relationship between the Bank and the Treasury and the power of the latter to give the former directions. The response to those questions was complicated by the intention of the Government to control not only the policies pursued by the Bank but also, through the medium of the Bank, the general credit policies of the commercial banks.[18]

The necessity of a general power to enable the Government to achieve the first objective had been generally recognized and accepted and its enactment did not give rise to serious controversy.[19] Section 4(1) of the Act accordingly empowered the Treasury to "... give such directions to the

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17 Rogow, op.cit., p. 155.

18 Sir Norman Chester, The Nationalisation of British Industry 1945-51. (1975) p. 879.

19 ibid., pp. 880-2.

Bank as, after consultation with the Governor of the Bank, they think necessary in the public interest." The implementation of the second objective gave rise to much greater difficulty. Initial drafts of the Bill were clearly based on the existing Defence Regulations and provided for the making of regulations governing the activities of the commercial banks and the attachment of criminal sanctions to a failure to observe their provisions.[20] The Governor of the Bank of England resolutely opposed this proposal arguing that such powers, if desired, should be incorporated in the Supplies and Services (Transistional Powers) Bill, "which would give the full powers you think necessary without bringing them into the Bank Bill. For the Bank Bill will be greatly in the limelight not only in this country but also abroad and I am sure you will agree with me, it is of the utmost importance in the national interest that it should go through Parliament quickly and with as much unanimity as possible."[21] The conflict was eventually resolved by means of a compromise and the resultant Section 4(3) provided that "the Bank, if they think it necessary in the public interest, may request information from and make recommendations to bankers, and may, if so authorised by the Treasury, issue directions to any banker for the purpose of securing that effect is given to any such request or recommendation." The significant removal of the criminal sanctions was justified on the grounds that their inclusion "would look unreal" and that "the real sanctions were those implicit in the relations between the Bank of England as a central bank and the commercial banks."[22]

(b) The Coal Industry

Of the Government's major measures of nationalisation, the most widely expected and the least controversial was the nationalisation of the coal mining industry. As the Economist pointed out, "support for the

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20 ibid., p. 883.

21 To the Chancellor of the Exchequer quoted Chester, op.cit., p. 68.

22 ibid., p. 885.

principle of public ownership of the mines is now very wide, extending probably to two and a half of the three parties."[23] "The mines", Youngson comments, "had to be nationalised. Nationalisation was the inevitable political outcome of a quarter of a century of wrangling, incompotence, indecision and frustration."[24]

The sudden shift from a deficit of demand which had dominated the industry throughout the inter-war period to an excess of demand over supply as a result of the war, gave rise to a growing fuel shortage and revealed the unpreparedness of both the industry and the Government. Initial Government intervention was hesitant; its most prominent feature being the establishment of a Ministry of Fuel and Power in July 1942 to coordinate policies towards the industry.[25] The persistence of the fuel shortage subsequently compelled the establishment of a centralised system of control over all coal mining operations, the machinery of which formed the organisational basis for the nationalised industry.

The system of control which was devised did not affect the financial control which was exerciseable by the colliery companies and the question of their ownership although frequently raised was deferred.[26] The Coalition Government did,however, appoint a committee to consider the technical efficienc of the industry. The Report of the Reid Committee which was published in 1945[27] provided conclusive evidence of the extent to which the industry still suffered from technological backwardness and fragmentation of ownership and recommended the drastic reorganisation of the industry and the creation of units on the largest possible scale under a centralised management as a necessary precondition of the improvement of its technical efficiency.

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23 Economist, 18 Aug. 1945.

24 Youngson, op.cit., p. 192 original emphasis.

25 The Ministry was placed on a permanent statutory basis by the Ministry of Fuel and Power Act, 1945.

26 Addison, op.cit., p. 253.

27 Coal Mining: Report of the Technical Advisory Committee. Cmd. 6610 March 1945,

Although the Reid Committee had not considered the question of ownership, its analysis of the failings of the industry and the continuing necessity of Government intervention in its operation appeared to make the arguments in favour of its nationalisation incontrovertible. The Labour Party stated its intention of nationalising the industry in its manifesto, Let Us Face the Future and in January 1946 the Coal Industry Nationalisation Bill was introduced. Although the Conservative Party was formally opposed to the Bill its opposition was restricted to points of detail rather than principle [28] and the Bill received the Royal Assent on 12th July 1946. Statutory intervention in the industry during the remainder of the Government's period of office was minor and consequential. The Coal Industry Act, 1949 increased the membership of the National Coal Board and empowered it to act outside the United Kingdom. The Coal Industry (No. 2) Act 1949 made provision for revenue payments in respect of the right to interim income conferred by section 19(2) of the Act of 1946 and the Coal Industry Act, 1951 amended sections 26 and 27 of the principal Act to increase the limit on financial advances by the Minister of the Board from £150 millions to £300 millions with an annual limit of £40 millions and to increase the limit on temporary borrowing by the Board from £10 millions to £20 millions.

(c) The Railways

The lack of investment, reduced maintenance and damage to track and rolling stock which had taken place during the War exacerbated the already seriously weakened condition of the railways. Their nationalisation had first been mooted during the first world war, but although they underwent drastic reorganisation as a result of the Railways Act, 1921 under which the number of companies was reduced from 119 to four "large semi-monopolistic undertakings" [29] they were returned to private ownership and control two

28 Harris, op.cit., pp. 89-92.

29 Grove, op.cit., p. 305.

years after its cessation. Their seriously weakened condition in 1945 and the dependence of their revival on considerable state-assistance, however, appeared to make their nationalisation inevitable. "Nationalisation was nearly a dead issue by 1945, at least in so far as the railways were concerned, since some form of public ownership or control was largely inevitable, whatever the political party in power at the time."[30]

The Labour Government was, however, committed to the public ownership of the whole of inland transport, a commitment which was based on the perceived necessity of considering the problems of the railways in relation to other forms of transport and in particular in relation to the road haulage industry, competition with which, under the burden of statutory restrictions on their powers to fix fares and charges, had weakened the position of the railway companies during the inter-war period. The Government's commitment to the nationalisation of the whole of inland transport, instead of the railways only, served to increase opposition to the nationalisation of transport generally and of the road haulage industry in particular.[31]

The resultant Transport Act, 1947 provided for the most complex framework for the organisation of an industry of all the nationalisation measures.[32] The Act provided for the establishment of a British Transport Commission charged with the creation of an "efficient, adequate, economical and properly-integrated system."[33] The Commission was additionally responsible for the operation of six sectoral executives which covered Railways, Dock and Inland Waterways, Hotels, which managed the assets of the former railway companies, London Transport, which replaced the former London Passenger Transport Board, Road Haulage and Road Passenger Transport. The arguments in favour of concentrating the determination of transport policy in a single executive which appeared to underly the commitment to nationalisation and the creation of the Commission were, however, absent from the Government's

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30 D.H. Aldcroft, British Railways in Transistion, (1968) pp. 105-6.

31 S.E. Finer, Annonymous Empire (2nd ed. 1966) pp. 93-4.

32 Pollard, op.cit., p. 389.

33 S. 3.

presentation of the measure and found no echo in the subsequent operation of the Commission. The commitment to planning in this, as in other areas, was to fade rapidly.

(d) Gas and Electricity

During the inter-war period substantial parts of the gas and electricity industries were in public ownership. Over one third of gas works and two thirds of the electricity supply industry were municipally owned and both publicly and privatedly owned undertakings were subject to a variety of forms of statutory control, the best known form of which was the first modern public corporation, the Central Electricity Board, which had been established in 1926 to control production and bulk supply in the industry.[34] The development of both industries was, however, hampered by the size of their units of production and supply which had become too small for maximum efficiency.

In May, 1936, the McGowan Committee on Electricity Distribution reported.[35] Grove states that, "its curious report seemed bent on getting the worst of all possible worlds."[36] While accepting the need for the nationalisation of distribution in the industry[37] the Committee rejected public ownership by regional boards and instead "antagonised local authorities by opting for compulsory absorption of the smaller (i.e. mainly local authority owned) undertakings by the larger (i.e. usually private company) undertakings, but at the same time aroused suspicion and resentment among the private power companies by recommending that all schemes of reorganisation should provide for "ultimate" public ownership."[38] Implementation of the Committee's proposals was initially postponed and then deferred

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34 Electricity (Supply) Act 1926.

35 Committee on Electricity Distribution. Report. Non. Parl 1936.

36 Grove, op.cit., p. 302.

37 The Central Electricity Board controlled only bulk supply and not retail distribution.

38 Grove, op.cit., p. 302.

indefinitely on the outbreak of the war. Discussion of the future of the industry during the war exposed the limits to political cooperation between the Parties when, in early 1945, "the Reconstruction Committee began to founder on the banal rock" of the future organisation and ownership of the industry.[39]

The Heyworth Committee was appointed in 1944 to examine the structure and organistion of the gas industry. In its report, which was published after the election, the Committee stated that although the industry was reasonably efficient its development was hampered by its structure and it therefore recommended the acquisition of all undertakings by regional boards.[40] Its report in "adopting the alternative which the McGowan Committee had rejected for electricity distribution ... greatly pleased[d] Ministers"[41] and formed the basis for the subsequent nationalisation of both the gas and electricity industries.

The enactment of the Electricity Act, 1947 and the Gas Act, 1948 took place at a time when the Government's political status had been considerably diminished and when the Conservative Party had begun to recover from its electoral defeat. The progressively greater opposition which these measures faced is primarily attributable to these factors rather than inherent characteristics of the industries being nationalised. The Electricity Act provided for the establishment of the British Electricity Authority charged with the generation of electricity supplies and for their distribution by Area Boards. Significantly the incorporation of the North of Scotland Hydro-Electric Board which had been established by the Hydro-Electric Devlopment (Scotland) Act, 1943 within the new framework was successfully opposed on the grounds that it had responsibility not only for the generation

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39 Addison, op.cit., p. 256. Chester, The Nationalisation of British Industry, op.cit., p. 18.

40 Committee to Review the Structure and Organisation of the Gas Industry. Cmd 6699. 1945.

41 Chester, The Nationalisation of British Industry, op.cit., p. 18.

of hydro-electric power but also for its generation as a means to the economic and social development of the Highlands,[42] in contrast to the proposed Authority which "was chiefly concerned with steam generation and the efficient development of the electricity industry as such."[43]

The Gas Act, 1948 provoked considerably greater opposition than the Electricity Act. That increased opposition stemmed from "the Opposition's belief that the Government's position was less strong in 1948."[44] Arguably the structure for the industry established by the Act of 12 largely independent Area Gas Boards responsible for the manufacture and distribution of supplies and a Gas Council with relatively minor responsibilities went a considerable way towards meeting the Conservative argument that earlier measures provided for over-centralisation. The suggestion by Harris that the adoption of this structure "might be construed as symptomatic of the Government's parallel shift towards New-Liberalism," is, however, unfounded.[45] In fact the regional organisation of the industry had been agreed as early as January 1946.[46] The Conservative response to the measure which argued the virtues of competition was, however, indicative of the rapidity with which shifts in perspective were prompted by perceived electoral advantage during this period and of the extent to which they had abandoned their former orthodoxy of the case for "functionally integrated industries and the coordination of all fuel and power production.[47]

(e) Iron and Steel

The Iron and Steel Act, 1949 was the most controversial of all the nationalisation measures. As we have seen during the inter-war period the industry epitomised "a fuedalistic system of cartel control."[48] Its activitie

42 Hydro-Electric Development (Scotland) Act, 1943. s.2(3).

43 Chester, The Nationalisation of British Industry, op.cit., pp. 431-2.

44 ibid., p. 60.

45 Harris, op.cit., p. 105.

46 Chester, The Nationalisation of British Industry, op.cit., p. 407.

47 Harris, op.cit., p. 105.

48 The Economist, 9 Dec. 1939.

were concerted through the British Iron and Steel Federation and it was heavily dependent upon state-intervention and in particular upon tariff protection for its survival. The protection afforded to the industry was used primarily as a means of reducing surplus capacity and maintaining prices, and little attempt was made to reduce the technological backwardness of the industry. The record of the industry during the inter-war period stood, however, in sharp contrast to its wartime record when considerable enlargement of capacity and modernisation was achieved.[49] The limited degree of public control over the industry introduced with the establishment of the Import Duties Advisory Committee was also increased with the appointment of the Iron and Steel Control in 1939. Opposition from the industry to its nationalisation was therefore to be expected in that it had emerged from the war as both modernised and profitable in contrast to other of the basic industries such as coal mining and the railways.

The opposition of the companies was based on self-interest. It was, however, strengthened and increased by other factors. Firstly the Conservative Party was also opposed to the nationalisation of the industry. Its opposition assumed increased significance as a result of its pledge to return the industry to private ownership as soon as was possible. This undertaking provided an incentive to the industry to delay its nationalisation as long as was possible. This incentive was also increased by the second factor which was the timing of the legislation. The Iron and Steel Bill was the last nationalisation measure to be brought forward and the lateness of its introduction not only increased the practicability of successfully opposing it until after the date of the next General Election but also magnified the symbolic conflict between the political parties over its enactment. As Rogow explains, "the almost continual debate that had been carried on since 1945 had served to focus public attention on steel nationalisation more than any other industrial policy or programme of the

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49 Pollard, op.cit., pp. 380-1.

Labour Government. For many on both sides of the question steel nationalisation had come to symbolise the basic doctrines and traditions of the respective parties, and for almost the first time since the war, to get at the roots of the difference between the parties."[50]

The third and final factor which strengthened and reinforced opposition to the nationalisation of the industry was the weakness of the case in favour of it. In the case of iron and steel there was no report such as that of the Reid or Heyworth Committees to make the case for public ownership and the industry's war and post-war record in conjunction with the degree of public supervision already exerciseable over its activities forced the Government, "to rely for its arguments on pre-war developments within the industry which, by 1949, seemed almost ancient history."[51] Moreover the commitment to the nationalisation of the industry was neither widespread nor of long standing within the Party. It had only become pledged to its nationalisation as a result of a left wing amendment at the Party Conference of 1944 which was carried against the wishes of the National Executive.[52] This background not only enabled senior ministers to procrastinate in its implementation but also facilitated its opponents popularization of it as the product of the left-wing of a divided Party.[53]

The Iron and Steel Control was dissolved at the end of the war and was replaced in 1946 by the Iron and Steel Board which was charged with the administration of the controls applicable to the industry and the supervision of its development programme during the period before its nationalisation. The Iron and Steel Bill which received its Second Reading in November 1949 provided for the nationalisation of 107 major companies the shares of which would be transferred to a new corporation, the Iron and Steel Corporation

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50 Rogow, op.cit., p. 163. Harris states that some Conservatives "saw Steel as the Rubicon of British Society." op.cit., p. 98.

51 Rogow, op.cit., p. 158.

52 Beer, op.cit., pp. 175-8.

53 Rogow, op.cit., p. 158 and esp. tn. 2.

which was established by the Bill.[54] The strength of both political and industrial opposition to the Bill and the fear of the Government that the House of Lords would delay the Bill compelled it to compromise to ensure its legislative passage.[55] In agreeing that appointments would not be made to the Corporation before 1st October 1950 and that the assets of the companies would not be vested in the corporation before 1st January 1951 it effectively postponed the determination of the issue until after the General Election. Although the Government was returned with a greatly reduced majority and eventually completed the process, it remained in office for an insufficiently long period for either the organisation or the operation of the industry to be materially affected.

(ii) Sectoral Policies

(a) Cotton

The Cotton Industry (Reorganisation) Act, 1939 authorised the establishment of a Cotton Industry Board with the function, inter alia, of creating a cartel in the industry through the fixing of compulsory minimum prices.[56] Its establishment was, however, postponed by the outbreak of the war[57] and in 1940 a Cotton Board was established under the Cotton Industry Act, 1940 to stimulate exports, encourage research, collect information and act as a negotiating body in matters affecting the industry. Its activities were financed by the imposition of a compulsory levy on firms in the industry. In the circumstances which faced Britain the concern with the stimulation of exports was premature and during the course of the remainder of the war the industry was "concentrated" and the buying of cotton centralised under the Cotton Control.

Policy towards the industry after the war was directed towards four objectives; the saving of foreign exchange, increasing the industry's exports

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54 This form of nationalisation, since it did not involve the dissolution o the companies, facilitated the fulfillment of the Conservative pledge to return the industry to private ownership.

55 The House of Lords power of delay was reduced to one year by the Parliament Act, 1949 which was passed too late to affect the outcome of the controversy.

56 supra.,

57 Cotton Industry (Reorganisation)(Postponement) Act, 1939,

and the rationalisation and modernization of the industry. Of these, the first two were immediate short-term objectives and their pursuit assumed precedence over the pursuit of the third objective. Of them, the saving of foreign exchange was the most easily attainable. Before the war the buying of raw cotton had centred on the Liverpool Cotton Exchange and in 1945 the Liverpool Cotton Association pressed for the abandonment of the system of centralised buying and for a reversion to the pre-war system. Since, however, cotton imported through Liverpool came from the U.S.A. the granting of complete freedom to the Liverpool Cotton Exchange was clearly incompatible with the necessity of controlling the dollar balance and in 1947 the system of centralised buying was made permanent by the establishment of the Raw Cotton Commission under the Cotton (Centralised Buying) Act, 1947.[58]

The potentially conflicting nature of the objectives of policy was most clearly illustrated by the second and third objectives and in an attempt to contribute towards the solution of the problem of the balance of payments the Government sacrificed the longer-term objective of its reoganisation and modernization to the immediate consideration of increasing its export earnings. The comprehensive proposals for adjustment to changed market and technological conditions made in the reports of the Cotton Textile Mission and the Working Party appointed in 1944 and 1945 were, Miles states, "almost completely ignored. Obsolescent plant was brought back into production and the Government actually went so far as to recruit foreign workers to operate it."[59] Some attempt was made to implement the recommendations of the Reports in relation to the spinning sector of the industry. The Cotton Spinning (Re-equipment Subsidy) Act, 1948, the policy embodied in which had been announced in December 1946, authorised the payment of subsidies

58 Worswick, Direct Controls, in Worswick and Ady, op.cit., pp. 292-3.

59 C. Miles, Protection of the British Textile Industry, in W.M. Corden and G. Fels, (eds.), Public Assistance to Industry, (1976) p. 185.

of 25 per cent of the total re-equipment costs to groups of companies with a combined size greater than 400,000 spindles on condition that some of the mills in the groups be closed down and the remainder modernised. The legislation which sought the reduction of capacity and modernisation was, however, out of phase with the immediate economic prospects of the industry. The buoyant demand for its products and the consequent profitability of existing plant provided little incentive for the modernization of the industry and of an estimated total expenditure under the Act of £16 millions[60] only £2.6 millions was, in fact, expended.[61]

(b) Natural Resources

The Government also intervened to mitigate the consequences of the exploitation of natural resources. For example, in relation to the open-cast mining of ironstone, the Mineral Working's Act, 1951 provided for the restoration of land which had been worked for ironstone from a restoration fund to which mining companies were required to contribute. The problem in relation to forestry was different. The future supply of timber had been seriously endangered as a result of the depletion of existing reserves during the war.[62] The Forestry Commission was reconstituted by the Coalition Government in 1945[63] and subsequent Acts provided for the dedication of land to forestry by covenant,[64] restricted the felling of trees and imposed a duty on the Forestry Commission under Section 3 of the Forestry Act, 1919 to promote the establishment and maintenance of adequate reserves of growing trees.[65]

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60 P.D. Henderson, Development Councils: An Industrial Experiment, in Worswick and Ady, op.cit., p. 456.

61 Miles, op.cit., p. 188.

62 Pollard, op.cit., p. 318.

63 The Forestry Act, 1945.

64 The Forestry Act, 1947.

65 The Forestry Act, 1951. Section 1(1).

(iii) Development Councils

The practice of "stream-lined" legislation by which broad powers were taken in relation to a wide area of activity, the best examples of which included the Supplies and Services (Extended Purposes) Act, 1947 and the Exchange Control Act, 1947, had no exact parallel in the Government's intervention in industry. Apart from enactments such as the Development of Inventions Act, 1948 which provided for the establishment of the National Research Development Corporation to develop and exploit inventions in the public interest the services of which would be available to all sectors of industry, the pattern of gradual statutory development in relation to specific sectors of industrial activity which we have observed in relation to the basic industries during the inter-war period and the nationalised and the cotton industries during the post-war period, remained the norm. The one exception to that pattern, which embodied "Labour's one distinctive policy for the private sector", was the Industrial Organisation and Development Act, 1947.[66] The analysis of the genesis and implementation of the legislation illustrates the Labour Government's approach to industry and some of the basic characteristics of economic law during this period.

Although the basic model for development councils was provided by the Cotton Board the Labour Government did not proceed immediately upon its election to the preparation of the legislation, but instead set up a number of working parties in a wide range of industries most of which produced consumer goods and especially textiles and were regarded as important exporters.[67] Additional characteristics of the industries were that they were composed of large numbers of small, technically backward firms which had been "concentrated" during the war and which it would be possible to rationalise without undermining competition.[68] Each working party was composed of representatives of employers and trade unions and a

66 Rogow, op.cit., p. 76.

67 C. Cooke, The Life of Richard Stafford Cripps, (1957) p. 336.

68 Leruez, op.cit., p. 67.

number of independent experts and their terms of reference were to, "Examine and inquire into the various schemes and suggestions put forward for improvements in organisation, production and distribution methods and processes in industry and to report as to the steps which should be taken in the national interest to strengthen the industry and to render it more stable and more capable of competition in the home and foreign markets."[69] In setting out the terms of reference Stafford Cripps stressed the importance of increasing the competitiveness of these industries to enable them to expand and maintain overseas markets but warned that, "the public and Parliament must be satisfied - whatever the recommendations may be - that they are truly in the national interest and that the two sides of industry have not "ganged up" against the consumer for their own advantage."[70]

Seventeen working parties were eventually appointed and they all agreed in their reports that productivity, research, quality and exports in the industries should be improved. In addition eleven of the parties recommended the establishment in their industries of permanent central bodies to develop policies and provide common services. The response of the Government was to secure the enactment of the Industrial Organisation and Development Act. Section 1 of the Act empowered eight Ministers[71] to establish a development council in any industry or group of industries by means of a development council order subject to affirmative resolution procedure[72] and to assign to it, in relation to the industry, any of the functions set out in the first schedule to the Act. Before establishing a development council a Minister was required to consult the industry[73] and to satisfy himself that its establishment was "desired by a substantial number of persons engaged in the industry."[74] Moreover, a council could not be established unless it "appears ... to be expedient ... to increase

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69 Hansard, 5th Sers. H.C.Debs. vol. 414. cols. 693-4. 15 Oct. 1945.

70 ibid.

71 Listed in S.1(2).

72 S.1(6).

73 S.1(3).

74 S.1(4).

efficiency or productivity in the industry, to improve or develop the service that it renders or could render to the community or to enable it to render such service more economically."[75] The composition of development councils was the same as that of the working parties[76] and their membership was to be appointed by the Minister.[77] In relation to the industry in which they were established they could be empowered to maintain a register of firms,[78] collect statistics[79] and impose a compulsory levy.[80] Where a development council was not established, a Minister, nevertheless, could impose a compulsory levy on firms for the purposes of promoting research, exports or improvements in design.[81]

The form and purpose of the legislation merit further consideration. The form of the Act was "streamlined" or enabling. Virtually every aspect of the organisation and operation of development councils, from their membership to their functions, was left to the discretion of the Minister.[82] Commenting on this feature of the legislation the Times ascribed its "deliberately wide and in some respects vague" objectives to the wide range of disparate industries to which it was potentially applicable.[83] This factor, although important, did not dispose of the significance of the form of the legislation. The same point was seized upon and extended by the Opposition who argued that the form of the legislation relieved the Government of the necessity of seeking renewed legislative authority for each individual act of intervention and that it thereby enabled the Government to

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75 S.1(1).
76 S.2(3).
77 S.2(2).
78 S.3(1).
79 SS.3(2) and 4(4).
80 S.4.
81 S.9.
82 For example, s.8(2).
83 The Times, 28 Jan. 1947.

engage in acts which, while of potentially great political significance, would not be subject to parliamentary scrutiny. In assessing this argument it should be noted firstly that the political advantage which is normally inherent in such legislation and which it was argued was conferred in this case was to a considerable extent diminished by the adoption of affirmative resolution procedure. Secondly the analysis of the legislation in the context of the doctrine of "voluntarism" suggests that the primary intention underlying its framing was not that it should enable the Government to engage in acts of "backdoor nationalisation" freed from the rigours of parliamentary scrutiny but rather than its form and its content should afford as much scope for compromise and the establishment of consensus as possible in its implementation. As Walkland points out, "Ministers like to retain for themselves a considerable area of manoeuvre, particularly in relation to their advisory agencies and the Department's clientele of pressure groups; extensive enabling clauses in parent Acts procure this."[84] The determination of the Government to proceed by agreement and hence implicitly its preparedness to compromise were emphasised by Stafford Cripps in opening the second reading debate. "Of course, an enabling Bill must be administered with great care and understanding, and the first point of that understanding is the realisation that to do things by compulsion is far less healthy and far less effective than to do them by agreement."[85] It is unlikely that the Government should have approached the legislation with intentions other than those which it openly manifested and which moreover had governed and were to continue to govern its approach to the question of its relationship with industry.

The above analysis suggests that in analysing the purpose of the legislation, the vague and ill-defined nature of the objectives of development councils set out in section 1(1) are indicative more of their status as

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84 S.A. Walkland, The Legislative Process in Great Britain, (1968) p. 44.

85 Hansard, 5th Sers. H.C. Debs. Vol. 433, cols. 552-3. 13 Feb. 1947.

propoganda than as binding criteria for action. Section 1(1) of the Act referred simply to increasing efficiency or productivity, improving or developing the actual or possible service rendered to the community or rendering it more economically. This vagueness and lack of definition was not clarified by the public pronouncements of the legislators which tended to emphasise a mixture of ends and means including, increasing efficiency, production and exports, fostering joint consultation among employers, trade unions and the Government and the introduction of a wider measure of public control over industry. The possibility that the first of these especially, might be achieved through the elimination of inefficient firms was minimised although, as has been seen, it was suggested by the structure of the industries in which the original working parties were established.[86]

A clearer picture of the apparent purpose underlying the establishment of development councils may be gained from an analysis of the functions assignable to them. Of the twenty functions listed in the first schedule to the Act nineteen concerned research, marketing, personnel, accounting methods and the representation of the industry. The remaining function, if assigned to a council, enjoined it to promote arrangements for co-operative organisations for the supply of materials and equipment, the co-ordination of production and the marketing and distribution of products. Of the twenty functions, therefore, only one concerned the organisation of the industry but referred only to co-operation and co-ordination. No power was provided "to modernize, regroup, relocate, amalgamate or abandon."[87] Apart from the powers to raise a levy, to maintain a register and to collect statistics[88] the councils had no coercive powers and were compelled to proceed on the

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86 Supra.

87 Brady, op.cit., p. 548.

88 Supra.

basis of persuasion and agreement. This analysis of the functions of development councils suggests therefore, that the purpose underlying their establishment was to improve industrial performance and efficiency largely through the provision of ancillary services.

Although this analysis is based on the provisions of the legislation and is reinforced by the absence of coercive provisions which accords with the emphasis placed on consensus by the doctrine of "voluntarism", doubt is cast upon its validity by the difficulty of reconciling it with the confidence expressed in the operation of development councils as catalysts of industrial reorganisation by the Government. The paradox is encapsulated by Brady's comment that, "when one recalls the stress laid on the necessity of major changes and the reorganisation of entire industries one is apt to be completely mystified by the parental pride shown for this curiously pallid progeny produced by the passing marriage of Labour Socialism to political power.[89] The point is reiterated by Rogow who states that, "it is still not easy to understand why such an organisation should have recommended itself to the Labour Government - nor the great efforts that were subsequently made to persuade industry to accept them. Even if enhanced efficiency was the sole objective of Government policy, these bodies could at best provide a number of common services for small firms to use or ignore as they pleased. The councils were certainly not equipped to make radical changes in industry and, indeed, Government spokesmen were at pains to point out that their powers were mainly permissive and to reassure industry that they were not the thin end of the wedge of tighter control or public ownership."[90]

The alternative hypothesis, that the legislation was intended to secure far reaching changes in the organisation of the industries in which councils were established, is equally unsusceptible of proof. If, as is stated by Mackintosh[91] and as is suggested by the structure of the industries in which

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89 Brady, op.cit., p. 551.

90 Rogow, op.cit., p. 79.

91 Mackintosh, op.cit., p. 577.

the working parties were established and the faith expressed in development councils by the Government, the purpose underlying their establishment was to eliminate inefficient firms and achieve a fundamental restructuring of the industries then they were clearly inadequate for that purpose. As Shonfield asks, "Why therefore did the Labour Government which could have forseen opposition not design a more effective instrument of public pressure?"[92]

Although two differing purposes may be derived from the content of and the background to the legislation it seems unlikely that either purpose was predominant. If the intention of the Government was to reorganise those industries in which development councils were established then its espousal of "voluntarism" led to its avoidance of compulsion and expression of faith in the adequacy of cooperation, which in turn served to rationalise the gulf between the objectives of the intervention and the means adopted. Shonfield states that there is no doubt that the Government wished to establish a regulatory body which, like the Iron and Steel Board, would collaborate in the pursuit of long-term objectives but that the method which it chose was designed to achieve "an essentially corporatist body; an association of producers with some legal powers of compulsion."[93] Once it became apparent that the faith expressed in cooperation was misplaced and that the method adopted was insufficient to attain the objectives, the Government, although it retained a commitment to the implementation of the legislation, made no attempt to amend it until in 1950 it proposed "if necessary" to use compulsion "if employers refuse to cooperate."[94] Its unwillingness to contemplate the strengthening of the legislation before 1950 was a consequence of its abandonment of long-term objectives and concentration

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92 Shonfield, op.cit., p. 96.

93 ibid., p. 98.

94 The Economist, 28 Jan. 1950.

on the immediate considerations of economic policy " ... the Government", Blank concludes, "never quite made up its mind ... [it] never saw the Development Councils as valuable enough to be worth risking the alienation of any important sector of industrial opinion."[95]

Political reaction to the legislation was mixed. Conservatives remained unconvinced of either the case for the legislation or the purposes for which it would be used despite the view expressed by the Economist after the Bill was published that fears of nationalisation were unfounded[96] and Stafford Cripps' assurance that "this Bill is [not] in some occult way an introduction of nationalisation of industry ... If and when we believe it to be in the national interest to bring other industries under national control or ownership, we shall act directly and not by some ingenious subterfuge. This Bill is designed to reinforce and strengthen private enterprise industries, so that they can made the best possible showing in the national interest."[97] The Conservative case against the Bill, however, rested almost entirely on the claims that it was unnecessary and that the Councils were "Trojan horses" for nationalisation[98] and not, on the liberal arguments that the arrangements fostered by the legislation might lead to a diminution of competition or the abuse by an industry of its position. The omission of these arguments was surprising in view of the fact that more generally the Act was regarded "as giving full legal status to the corporatist practices that had grown up during the war"[99] and as part of a trend which dated from the inter-war period towards self-government in industry."[1] Nor were they seized upon by Labour backbench members and their failure to criticise the Bill was made more remarkeable by the fact that

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95 Blank, op.cit., p. 88.

96 The Economist, 1 Feb. 1947.

97 Hansard, 5th Sers. H.C.Debs. Vol. 433, col. 550. 13 Feb. 1947.

98 Harris, op.cit., p. 126.

99 Leruez, op.cit., p. 68.

1 P.E.P., op.cit., p. 42.

similar proposals made by the Federation of British Industries in 1946 had been criticised on those grounds by a wide spectrum of political opinion including the Labour Party.[2] The possibility of these criticisms being made was recognized by Stafford Cripps in opening the second reading debate[3] but the point was not regarded by subsequent speakers as being of sufficient significance to warrent further consideration. It was left to the penultimate speaker David Eccles, having quoted the words of Adam Smith that, "People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices," to ask the House, "to consider seriously whether it is wise to adopt the principle that an industry ought to think as an industry. To do that is to be on the road to monopoly."[4]

The political opposition to the measure expressed during its legislative stages was, however, insignificant in comparison with the opposition of industry to its implementation. "The attempt to form these Development Councils," Blank states, "ran into extraordinary opposition in industry and led to one of the few major open confrontations between industry and the Labour Government."[5] By 1951 two draft orders had been withdrawn in the face of opposition and four councils only had been established in Cotton, Furniture, Jewellery and Silverware, and Clothing, of which only the Cotton Board which had been reconstituted by development council order was unopposed. In the case of the Clothing Council opposition extended to recourse to the courts and the Council was boycotted by the industry before being dissolved by the Conservative Government.[6] In addition the Government

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2 Rogow, op.cit., p. 80. Blank, op.cit., p. 86.

3 Hansard, 5th Sers. H.C. Debs. vol. 433, col. 555.

4 ibid., col. 656.

5 Blank, op.cit., p. 85.

6 In Thorneloe and Clarkson v. Board of Trade[1950]2 All E.R. 245 a declaration was sought that the development council order was ultra vires and void on the grounds that the condition that its establishment was "desired by a substantial number of persons engaged in the industry" had not been satisfied. The Court declined to intervene where there was evidence that the Minister could reasonably be satisfied.

was unable to reach agreement on the establishment of councils with the wool, boot and shoe, cutlery, pottery and day industries. The impact of the legislation was slight and "clearly the Government had suffered a major defeat on the whole issue of Development Councils."[7]

The hostility of industry to the establishment of development councils was paradoxical in that initially, at least, the views of industry had appeared to coincide with those of the Government as was exemplified by the similar proposals made by the Federation of British Industries in 1946[8] and it may have been this apparent consensus which persuaded the Government that the legislation as formulated was sufficient to achieve the reorganisation of the industries. Several factors may be adduced in explanation of this shift from agreement to hostility on the part of industry. Firstly it became increasingly apparent during the implementation of the legislation that the Government was politically vulnerable and this recognition may have, weakened one of industry's main incentives to cooperation with the Government. Secondly, and more importantly, the economic background against which the legislation was implemented was the antithesis of that anticipated by the Federation of British Industries in formulating its proposals for cooperation between industry and the Government immediately after the war. As in the case of cotton examined earlier, questions of reorganisation and modernization became irrelevant to firms confronted with buoyant demand for their products. "When the fears of post-war slump began to dissipate, so did the desire for special powers to enable better control or the reorganisation necessary to meet depression.[9]

Both the experience of the Cotton Spinning (Re-equipment Subsidy) Act 1948 and of the Industrial Organisation and Development, 1947 suggest that

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7 Rogow, op.cit., p. 81.

8 P.E.P., op.cit., p. 41.

9 ibid., p. 42.

the prospects for the successful implementation of reorganisation legislation are a direct function of the extent of economic depression.

The most important factor in the failure of the legislation was, however, undoubtedly the suspicion aroused in industry by the form and ambiguity of purpose of development councils. The fact that they were not merely advisory and that they were not representative solely of the industries concerned added substance to the fear that they "represented simply another long step towards State direction of private industry, through the formation of organisations with statutory authority over an industry in which the Government could control a majority of the membership. For many in the Federation of British Industries the Development Councils appeared as a direct attack on the independence and autonomy of private industry,"[10] and as a means of superseding existing trade assocations the development of which had continued during the war as a result of the reliance placed by the Government on industries in the administration of controls and which industries preferred as the exclusive means of communication between themselves and the Government.

Our analysis of the Industrial Organisation and Development Act, 1947 therefore not only confirms and extends our more general analysis of industrial policy but also highlights four significant characteristics of economic legislation. It reveals firstly a fundamental preference on the part of the Government for agreed as opposed to imposed solutions. The ambiguity and imprecision frequently associated with the stated objectives of legislation is fundamental to the process of compromise and the reduction of intransigence which surrounds it. Secondly, that process of compromise and adjustment is a continuous one which extends to the implementation of the legislation as well as to its emergence. Successful involvement in that

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10 Blank, op.cit., p. 86.

process necessitates the framing of the legislation in facultative terms so that its implementation is unconstrained by the detailed wording of the statute. This preference for broad discretionary powers may be reinforced by indirect influences such as the avoidance of judicial review or facility of implementation in rapidly changing circumstances but these are subsidiary to the primary influence which corresponds to and reflects the Government's general approach to the question of its relationship with industry. The Government's general perspective is the principal component of what may be termed its legislative perspective. The third feature, the avoidance of coercion, which stemmed from doctrine of "voluntarism" is of particular importance in the case of the Labour Government and illustrates the relationship between its general and legislative perspectives. Fourthly and finally this analysis reveals a continuous emphasis on short-term considerations whic governs both the emergence and implementation of the legislation and which reinforces the initial emphasis placed on consensus.

(iv) Monopolies and Restrictive Trade Practices

The history of development councils illustrates the conflict that existed in Government policy between strengthening the internal organisation of industries and determining where the public interest lay in relation to the opportunities for the restriction of competition afforded by that development.[11] During the inter-war period the growth of trade associations and the restriction of competition had been complementary features of the same process and the subject of overwhelming approval. The perception of their consequences as being economically detrimental had only emerged during the war and was not uniformly held. In particular the uncertainty which

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11 P.E.P., op.cit., p. 44.

existed over post-war economic prospects was inimical to the removal of what were seen primarily as a means of alleviating and diminishing the consequences of depression. Opposition to monopoly and restrictive trade practices was based on the assumption that the problem of the post-war economy would not be the avoidance of cut-throat competition but rather the maxinisation of output and productivity in fulfillment of the commitment to full employment. The attainment of that goal, moreover required the removal of those widespread practices "which would inhibit the fluidity and flexibility which properly should accompany a vigorously growing manufacturing economy."[12]

This view did not command widespread political support from either of the major parties in the Coalition but it was shared, significantly, by the President of the Board of Trade, Hugh Dalton, whose influence was marked in the White Paper on Employment Policy which "contained the first hint of the growing and anti-restrictionist trend of public opinion"[13] and which committed both parties to the enactment of legislation against restrictive trade practices and monopolies. It stated that, "there has in recent years been a growing tendency towards combines and towards agreements, both national and international, by which manufacturers have sought to control prices and output, to divide markets and to fix conditions of sale. Such agreements or combines do not necessarily operate against the public interest; but the power to do so is there. The Government will therefore seek power to inform themselves of the extent and effect of restrictive agreements, and of the activities of combines; and to take appropriate action to check practices which may bring advantage to sectoral producing interests but work to the detriment of the country as a whole."[14] Hugh Dalton subsequently attempted to obtain a commitment to introduce a Restrictive

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12 A Hunter, Competition and the Law, (1966) p. 78.

13 Pollard, op.cit., p. 386.

14 Cmd. 6527, para. 54.

Trade Practices Bill inserted in the King's Speech but was unsuccessful. "On this contentious subject," he disclosed, "Ministers were never in sight of agreement."[15]

The Labour Party's pledge was reiterated in its election manifesto in which it promised "public supervision of monopolies and cartels." As in the case of development councils the Government clearly preferred a gradualist approach and it initially appointed official investigatory committees in the film, radio valve, cement and building materials and components industries. Their reports "revealed a position in which restraints on price competition were widely imposed by private bodies together with arrangements for the collective boycott of price competitors and for restrictive dealing"[16] and "helped to keep alive the issue of market dominance."[17] Moreover, their form reflected the Government's gradualist approach and indicated the unlikelihood of any activity being proscribed per se as being contrary to the public interest. "They clearly reflected a pragmatic system of inquiry into market dominance conditions. The committees emphasised the special circumstances of their own reference fields in formulating their conclusions. They were extremely reluctant to generalise upon their specific findings."[18]

The expansionary nature of the post-war economy confirmed the assumption upon which the case for the control of monopolies and restrictive trade practices had been based, and in conjunction with the growing neo-Liberal

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15 H. Dalton, The Fateful Years: Memoirs 1931-45 (1957) pp. 47-8. He did, however, prepare the Heads of a Bill which proposed the establishment of an investigatory tribunal to which a firm or firms could be referred and which could propose remedial action, "including, for example, the nationalisation of the offending firm or group of firms." ibid.

16 M. Hall, Monopoly Policy, in Worswick and Ady, op.cit., p. 408.

17 Rowley, op.cit., p. 30.

18 ibid., p. 34.

trend of political opinion increased the economic and political desireability of their control. In 1948 the Government introduced the Monopolies and Restrictive Practices (Inquiry and Control) Bill which received the Royal Assent on 30th July. The Act provided for the establishment of a Monopolies and Restrictive Practices Commission[19] which was charged with the duty of investigating references made to it by the Board of Trade.[20] References might be made, where specified conditions were satisfied, in relation to the supply of goods of any description,[21] the application of any process to goods of any description[22] and the export of goods of any description from the United Kingdom.[23] Such a reference could only be made where at least one third of the supply of such goods, such processing or such exports was supplied either by one person, or by two or more persons who voluntarily or involuntarily, by agreement or not, conducted their affairs so as to prevent or restrict competitors.[24] The Act thus covered both monopolies and restrictive trade practices provided that the one-third rule was satisfied but did not extent to the activities of trade unions or the supply of services.

The Board of Trade could restrict the Commission's terms of reference "to the facts"[25] or extend them to include consideration of whether or not the conditions investigated "operate or may be expected to operate against the public interest."[26] In determining the public interest the Commission was required to take into account "all matters which appear in the particular circumstances to be relevant" and to have regard "to the need,

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19 S.1(1).
20 S.2(1).
21 S.2(1)(a).
22 S.2(1)(b).
23 S.2(1)(c).
24 SS. 3-5.
25 S.6(1)(a).
26 S.6(1)(b).

consistently with the general economic position of the United Kingdom to achieve -

(a) the production, treatment and distribution by the most efficient and economical means of goods of such types and qualities, in such volume and at such prices as will best meet the requirements of home and overseas markets;

(b) the organisation of industry and trade in such a way that their efficiency is progressively increased and new enterprise is encouraged;

(c) the fullest use and best distribution of men, materials and industrial capacity in the United Kingdom; and

(d) the development of technical improvements and the expansion of existing markets and the opening up of new markets."[27]

This definition bore the characteristics of vagueness and ambiguity which we have examined in our analysis of the Industrial Organisation and Development Act, 1947. "These statements are pregnant with problems of definition; they were scarcely expected to be of practical use to the Monopolies Commission. This is no criticism of the Act, which was drafted against a background of uncertainty concerning the effects of monopoly and restrictive practices."[28] The corollary of allowing the Commission to formulate its own philosophy was, however, that the implementation of the legislation was largely unconstrained by either the statutory provisions or the debates that had taken place during the parliamentary stages of the legislation. Two observations may be made in relation to this consequence. Firstly it coincided with the Governments' original intention which was not to include any definition of the public interest, a position which it was only compelled to concede under Opposition pressure. Secondly in view of the uncertainty which surrounded the effects of monopoly and

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27 S.14.

28 Rowley, op.cit., p. 72.

restrictive trade practices, the ambiguity and vagueness of the definition of the public interest provided in the legislation may be interpreted as a reflection of the necessity felt by the Government of doing something but its uncertainty as to what should be done. This interpretation is compatible with our earlier interpretation of the rationale for broad discretionary powers as being intended to secure considerable freedom to manoeuvre in the implementation of legislation, a freedom which in the case of the Monopolies and Restrictive Practices (Inquiry and Control) Act was safeguarded by the Government's control of the reference and enforcement procedures. The effect was that it would be, therefore, impossible to criticise the implementation of the Act in terms of the "public interest" as defined in the legislation. "Economists and philosophers may criticise the Commission for its interpretations of the public interest. It is scarcely possible, however, to suggest that any of the Commission's interpretations are in direct conflict with the directions imposed by the 1948 Act."[29]

The initial progress of the Commission was slow. In addition to the Report of the Lloyd Jacob Committee on Resale Price Maintenance[30] only two reports were completed before the Government left office.[31] The choice of these areas for investigation suggested a preference for the examination of restrictive trade practices as opposed to monopoly. "The Board of Trade did not refer to the Monopoly Commission for investigation those industries where production was notoriously concentrated in a few large units ... on the contrary, the Commission devoted its attention to certain industries where a number of small firms had associated to pursue collective price and output policies."[32] Underlying that emphasis was a belief that the problems of restrictive trade practices was economically more serious than that of monopoly and that while the abolition of the former was fundamental to

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29 ibid.

30 Cmd. 7696, 1949.

31 Report on the Supply of Dental Goods (1950): Report on the Supply of Cast Iron Rainwater Goods (1951).

32 Hall, op.cit., p. 402.

economic expansion, in considering the latter it was important not to curtail "the cartellization in industry of technological know-how and development which was crucial to Britain's survival as an industrial power."[33]

The conclusion of the Lloyd Jacob Committee that collective price maintenance was contrary to the public interest, but that the individual manufacturer should be free to maintain the end price of his product illustrates the change that had taken place in political attitudes to the restriction of competition since the inter-war period when the Greene Committee had concluded that there was no reason to think that a change in the law would benefit the public. Attempts by the Government to reach agreement with manufacturers and traders on the abolition of collective resale price maintenance and the moderation of individual resale price maintenance failed and in June 1951 in a White Paper the Government announced its intention of legislating against both forms of resale price maintenance.[34] The implementation of this intention was, however, by then clearly a political impossibility. The slow progress, and many argued ineffectiveness and lack of impact of the legislation[35] was attributable to a number of factors. Firstly the size of the Commission and the amount of resources allocated to it were small in comparison with the widespread nature of the problem. Secondly the procedure laid down in the Act was inimical to rapid progress. The Commission had no power to initiate its own inquiry but was dependent upon a reference from the Board of Trade. In addition the scope of its inquiries was restricted by the emphasis placed on the adoption of an empirical, case by case, approach to the problem. An attempt

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33 P. Foot, The Politics of Harold Wilson (1968) p. 68.

34 A Statement on Resale Price Maintenance: Cmd. 8274, 1951.

35 See for example, Hansard 5th Sers. H.C. Debs. vol. 488. col. 2689. 15 June 1951 and Rogow, op.cit., p. 96.

by a Labour back-bencher to insert an amendment empowering the Board of Trade to require the Commission to submit a report on the general effect on the public interest of practices of a specified class was successful but its use was, as a result of Opposition pressure, made conditional upon the Board of Trade being, "satisfied that the practices of that class have been dealt with ... by previous reports of the Commission."[36] The Government, moreover, showed no signs of urgency. The Commission was not appointed until 1949 and as Hall points out "in its first three years, issued three reports on very small industries covering three eight-thousandths of the total working population. It would at that rate take 8,000 years to cover the whole of industry."[37]

Thirdly and finally no remedies were specified in the legislation and their determination and application was entirely at the discretion of the Minister responsible. As Hunter points out, "in making its reports the Commission only recommended appropriate remedies to the Government but the Government was under no obligation to legislate or make a statutory order carrying out the recommendation. Thus the control element had a purely ad hoc application at official discretion and, in practice, only once in the first twenty reports was a statutory order made."[38] The order was made in relation to the dental goods industry but no attempt was made in this and subsequent cases when agreements were reached to ensure that they were in fact implemented. In the case of rainwater goods, which was the only other report received during its period of office, the Government revealed a preference, which was in accordance with its policy of "voluntarism", for proceeding on the basis of compromise and agreement and appeared reluctant to confront the contradiction in its policy towards trade associations which it relied upon for consultation and the application of controls but which were at the same time the main initiators of restrictive trade practices and the

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36 S.16(1).

37 Hall, op.cit., p. 413 and see Rogow, op.cit., p. 96.

38 Hunter, op.cit., p. 81.

main means of their enforcement.[39]

To describe the main contribution of the Act as the provision of information is undoubtedly correct.[40] To, however, equate that result with the original legislative intention is to proceed on the basis of hindsight and to distort the significance of this legislative episode and its contribution to our understanding of the development of economic law during this period. It was the President of the Board of Trade, Harold Wilson, who described the case for the Bill as resting inter alia on the "clear necessity of finding out all the facts to see whether this power to do harm is, in fact, being used in an anti-social way and where it is, of taking effective and appropriate steps to curb any of these anti-social practices "[41] and he returned to the point in describing the Bill as "provid[ing] us with eyes and ears, and a fairly lengthy nose; but it goes further than that, and provides a pretty effective set of teeth as well."[42] The reconciliation of these claims with the impact of the Act can only be achieved through the recognition of the importance attributed by the Government to consensus and cooperation which was manifested both in the discretionary nature of its content and in its implementation and not through the reduction of its underlying intention to the collection of information.

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39 Rogow, op.cit., p. 98.

40 Hunter, op.cit., p. 81.

41 Hansard 5th Sers. H.C. Debs. vol. 449, col. 2019, 22 April 1948 (emphasis added.)

42 ibid., col. 2028.

12. THE CONSERVATIVE GOVERNMENTS 1951-64.

Introduction

At the general election of 1945 the Conservative Party remained uncommitted to the Welfare State and the framework of the managed economy.[1] The crushing defeat which it suffered impressed upon its membership the desirability and importance of those commitments. "It was clear", Harold Macmillan wrote, "to an unbiased observer that it was not Churchill who had brought the Conservative Party so low. On the contrary it was the recent history of the party, with its pre-war record of unemployment and its failure to preserve peace."[2] The refurbishment of the image of the Party was dependent upon "the formulation and popularisation of new policies, based indeed on old principles but adapted to new and changing conditions."[3] "The party had", he continued, "to convince the great post-war electorate that we accepted the need for full employment and the Welfare State, that we accepted equally the need for central planning and even, in time of scarcity, physical controls. We had to devise and publicise a position in between the old Liberalism and the new Socialism."[4]

Of particular importance in the revision of policies was the influence gained within the Party by its newest recruits who, in conjunction with the inter-war radicals, mounted an assault on the existing leadership. Although they did not achieve predominance, in the ensuing accommodation of interests the formulation of domestic policy

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1 Beer, op.cit., p. 308.

2 Tides of Fortune, 1945-55 (1969) p. 286.

3 ibid., p. 299.

4 ibid., p. 311.

fell largely under their control.[5] The Industrial Charter of 1947 which reconciled the conflicting needs of change and continuity and symbolized the commitment of the Party to the Welfare State and the managed economy bore testimony to their influence. Its importance as a guide to policy was diminished however, by the subsequent emergence of a "neo-Liberalism" within the Party.[6] "The 1947 Industrial Charter is less what it is claimed to be - the foundation document of "New Conservatism" - and more the final expression of the radical etatiste thought of the 1930s; it closes rather than opens an era."[7] Its largely symbolic significance and the subsequent shift to "neo-Liberalism" are illustrated by its comparison with the policy document of 1949, The Right Road for Britain. "The hot white light of free enterprise was present in the Industrial Charter, but it was blurred by a reddish filter - a filter which balanced support for free enterprise with the determination to apply strong central guidance over the operation of the economy. In the Right Road the white light burned as before, but, to extend the analogy, the reddish filter was replaced with one of a fainter hue. Some of the urgency was gone."[8]

The emergence of a "neo-Liberal" element within the Party's perspective after 1947 clearly contradicted the position of influence assumed within the Party by the inter-war radicals and was rendered doubly contradictory by the fact that "many of the most enthusiastic proponents of "neo-Liberalism" were just those young Conservatives who had supported the etatiste revision of Conservatism up to 1947."[9]

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5 Harris, op.cit., p. 80.

6 ibid., p. 77.

7 ibid.

8 J.D. Hoffman, The Conservative Party in Opposition (1964) p. 192.

9 Harris, op.cit., p. 77.

To attempt to resolve the contradiction would be to distort the nature of Conservative thought during the period under consideration. Rather its significance can be better understood if the emergence of "neo-Liberalism" is seen as representing, not a complete revision of the Conservative perspective but rather a change of emphasis which several factors had combined to promote.

Firstly, the radical tradition within the Conservative Party had emerged in response to the problems of over-production and mass unemployment which had dominated the inter-war period and had received its main impetus during the immediate post-war period from fears of a recrudesence of the same conditions. By 1948 those fears had proved unfounded and had been replaced by a widespread optimism which was reflected in the emergence of "neo-Liberalism". Secondly, the Party's political position and short-term political considerations fostered that change in emphasis. "Being in opposition the Conservative Party tended to emphasise its libertarian traditions and its opposition to State power and bureaucracy on behalf of the "People",[10] and that emphasis coincided with, and was expressive of, the more general political reaction against the continuation of austerity and it accordingly formed the basis of a consistent and continuous critique of the Labour Government's policies.

Between 1951 and 1964, however, the attitudes of the Conservative Governments shifted from fundamental antipathy towards planning to its renewed acceptance. The examination of that change is the subject of the next section.

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10 Harris, op.cit., p. 79.

(1) Holding the Ring and the Return to Economic Planning

The new Conservatism consisted of an admixture of elements drawn from different strands within the Party's perspective, the contradictions and inconsistencies within which were left substantially unresolved. The Party's platform at the general election of 1951 was representative less of "a coherent political programme or philosophy" than of a loose and inconsistent set of aspirations and beliefs[11] which bore little relationship to the underlying problems of the economy from which the formulation of policy derived its main impetus.[12] Arguments over, for example, "the relative merits of controls and planning versus the price mechanism and 'freedom'",[13] served more to conceal the significance of the Conservative Party's earlier acceptance of the Welfare State and the managed economy and in particular the extent of the consensus which existed between the parties over the objectives and tools of economic policy.[14] The significance of that consensus for an understanding of the formulation of policy during the period under consideration is indicated by Glickman. "Agreement existed on the levels of both fact and value, i.e. on the desirability of the Welfare State, as well as on the policy for its maintenance. This universal approbation has defined and limited a policy framework, within which all effective political activity must take place."[15] If, however, the Conservative Party's period of office revealed that its goals and policies were substantially similar to those of its predecessor it also challenged the conviction with which the basic tenets of the new Conservatism were held.

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11 P. Oppenheimer, Muddling Through: The Economy 1951-64, in V. Bogdanor and R. Skidelsky (eds), The Age of Affluence 1945-64 (1970) p. 120.

12 Winch, op.cit., p. 300.

13 ibid.

14 Harris, op.cit., p. 135. P.D. Henderson, Government and Industry in G.D.N. Worswick and P.H. Ady, (eds), The British Economy in the Nineteen Fifties (1962) p. 334.

15 Glickman, op.cit., p. 475.

"Office tested the Conservative commitment to neo-Liberalism, and events, rather than a Labour Government, became the formative influence in Conservative responses."[16]

The Korean war caused a world-wide shortage of raw materials as a result of American stockpiling and intensified inflationary pressures through the resultant increase in commodity prices. In the United Kingdom it led to the institution of a massive rearmament policy, rising prices and a balance of payment crisis.[17] In response to the crisis the Conservative Government, in November 1951, tightened physical controls over the economy, including controls over imports and the allocation of raw materials, and increased Bank Rate from the level of 2 per cent in 1932 to 2½ per cent. Its charge "was the harbinger of the restoration of flexible monetary and credit policy as an instrument of economic regulation."[18]

By 1953 economic recovery had begun and it continued and gathered momentum into 1954. Full employment was maintained, a surplus on the balance of payments achieved and productivity increased. In addition a measure of trade liberalisation was attained through the reduction of controls over imports and domestic controls were virtually abolished. Weaknesses in the economy were, however, apparent. The boom in domestic consumption, whilst fostering corporate expansion based on the domestic market, put pressure on the balance of payments and at the same weakened the spontaneous impetus for companies to modernise and, in conjunction with the relaxation of attempts at governmental persuasion, reduced the pressure on them to export.[19] Prices

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16 Harris, op.cit., p. 149.

17 Dow, op.cit., p. 55.

18 G.D.N. Worswick, The British Economy 1950-9, in Worswick and Ady, op.cit., p. 19.

19 ibid., p. 32.

continued to rise and by the end of 1954 it had become evident that the balance of payments was in difficulties. In February 1955 Bank Rate was raised to 4½ per cent and restrictions on hire-purchase were imposed in an attempt to curb domestic consumption. Two months later Winston Churchill resigned as Prime Minister and his successor, Anthony Eden announced that a general election would be held in May. The Budget introduced in April controverted the logic of the February measures in that it increased the pressure of domestic demand through the provision of tax relief and, as a result, engendered claims that "the Conservatives had brought electoral politics down to the bread-and-circuses level."[20]

Whether or not the Budget was the product of "cynical electioneering", "politically motivated over-optimism" or unintentional error,[21] the Conservative Government increased its overall majority from 17 to 58 at the general election. As befitted a government which had entered office committed to "freedom" and opposed to "planning" organisational changes in the existing machinery for economic planning and the provision of economic advice were limited and restricted to mainly marginal adjustments. The Economic Policy Committee of the Cabinet was used initially by Winston Churchill to watch over and restrict the activities of the Chancellor of the Exchequer, R.A. Butler, "whose Conservatism", Mackintosh explains, "was slightly suspect among the Prime Minister's circle."[22] This role was, however, short-lived and the re-emergence of the balance of payments difficulties after 1954 presaged its return to

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20 Oppenheimer, op.cit., p. 119.

21 Possible explanations are discussed in M. Pinto-Duschinsky, Bread and Circuses? The Conservatives in Office, 1951-64, in Bogdanor and Skidelsky (eds), op.cit., p. 67.

22 Mackintosh (2nd ed.) op.cit., p. 514, Daalder, op.cit., p. 225.

the more orthodox functions with which it had been charged under the Labour Government. More generally the position of the Treasury was consolidated by the abandonment of physical controls and the consequent reliance upon monetary and fiscal policy, and its predominance in the field of economic policy was symbolised by the transfer to it in 1953 of the Economic Section of the Cabinet Office.[23]

The two years which followed the general election of 1955 envinced a shift from an essentially expansionist doctrine to a more cautious programme of safety first in the Conservative approach to the economy during which much of the Government's liberal ethos disappeared.[24] "In the first half of the 1950s the emphasis was on liberation from Socialist controls and austerity - "Conservative freedom works." In the second half it was on stability and confidence, particularly of financial circles and foreign holders of sterling."[25] A policy of continuous domestic restraint was instituted through the imposition of restrictions on domestic credit and reductions in the investment programmes of the nationalised industries in an effort to maintain price stability, adjust the balance of payments and prevent speculation against the value of sterling to which the Government was particularly vulnerable as a result of the difference between the sterling balances and the reserves. Although the credit squeeze effectively reduced imports, while at the same time exports rose, output and investment stagnated and inflation continued.

Although later commentators have interpreted the weakness of sterling as a consequence, partly at least, "of the major difficulties

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23 Chester, op.cit., p. 330.

24 S. Brittan, The Treasury Under the Tories, (1964) p. 164, Harris, op.cit., p. 150.

25 Oppenheimer, op.cit., p. 120.

created by the freeing of capital movements in the framework of a world with inadequate international liquidity",[26] the government emphasised the inflationary level of wage settlements in its explanation of the vulnerability of sterling and its subsequent actions must therefore be viewed in the light of that conceptualisation of the problem.[27] Confronted with a speculative attack on sterling in September 1957, the Government introduced further restrictive measure including the raising of Bank Rate by 2 per cent to 7 per cent. The institution of this disinflationary policy in an already stagnant economy was widely interpreted as signifying the sacrifice of the first priority of post was economic policy, full employment, to that of price stability. "Inflation", the Chancellor of the Exchequer, Peter Thorneycroft, stated, "means: a decline in the internal and external value of our money. It is clear that we have got to beat it and it is clear that we must sacrifice other ends of policy to secure that aim."[28]

The adoption of a policy of monetary disinflation was, in part, the corollary of the earlier failure of the Government to establish an incomes policy. In that context its adoption represented a logical attempt to solve what was seen as a problem of excessive demand.[29] Equally, however, its adoption reflected the Conservative Government's over-estimation of monetary policy as a controlling device, That over-estimation stemmed from a conception of monetary policy "as the natural complement to the removal of physical controls; it was believed to be a free market or pricing device which operated in a flexible, rapid and non-discretionary fashion "[30] and was reinforced by an aversion to the

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26 Worswick, op.cit., p. 51.

27 Beer, op.cit., p. 367.

28 Hansard 5th Sers. H.C. Debs vol. 577 col. 47, 29 Sept. 1957.

29 Beer, op.cit., p. 367, Brittan, op.cit., p. 203.

30 Winch, op.cit., p. 301.

utilisation of physical controls. With the growing economic problems facing the Government, increasing recourse was had to monetary controls in the protection of the value of sterling and the control of domestic demand. The faith expressed in monetary policy was, however, partly ill-founded,[31] and ignored the underlying industrial problems of the economy. "The technique of monetary restrictions was envisaged as the basis of a long-term policy which would by itself supply the cure for Britain's economic ills. It would do so by restoring the discipline of the market. There was no hint at this stage that what was really required was a concentrated effort to increase the productivity and selling power of British industry."[32]

Implementation of the policy of monetary disinflation was accompanied by the advocacy by the Chancellor of the Exchequer of automatism; the restriction of public expenditure to pre-determined levels. If, as Winch suggests, the revival of the quantity theory of money was motivated "by a desire to avoid the responsibilities of political decision-making",[33] the Chancellor of the Exchequer's Cabinet colleagues were sceptical of their ability to avoid those responsibilities and in January 1958 he and two of his junior Ministers resigned in the absence of support from the Prime Minister and in the face of almost total Cabinet opposition.[34] The shortness of the period of the apparent abandonment

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31 See the Report of the Committee on the Working of the Monetary System 1959 Cmnd. 827 and Winch, op.cit., p. 302. Neither was reliance on monetary controls coterminous with the free market economy. Its implementation necessarily implied the making of discriminatory choices by economic actors other than the Government. See Worswick, op.cit., p. 73 and Beer, op.cit., pp. 327-8.

32 Shonfield, op.cit., p. 101.

33 Winch, op.cit., p. 303.

34 Thorneycroft earned himself the title of "the lonliest man in the Cabinet", Mackintosh (2nd ed.) op.cit., pp. 459 and 562.

of the commitment to full employment and the lack of support for the Chancellor of the Exchequer illustrates the strength and durability of the consensus which existed between the political parties over the commitment.

The Budget presented in April 1958 laid the basis for only moderate expansion and the recession continued throughout the year with unemployment reaching its highest post-war level of 2.8 per cent in January 1959. Further reflationary measure were taken during 1958 and the Budget of April 1959 gave a substantial boost to the boom which was by then underway. The expansion centred around the general election which took place in October 1959 at which the Conservative Government increased its overall majority still further to 100, but, by the following year the familiar stop-go cycle of economic expansion being accompanied by a deterioration in the balance of payments, as a result of increased exports, and consequent speculation against the value of sterling had become evident.[35]

In the summer of 1961, the Government, in an effort to improve the rapidly deteriorating balance of payments and to stave off a severe speculative attack against sterling, pursued severely disinflationary measures. Reaction to the renewed crisis, however, differed significantly from that to its predecessors. Whereas, despite the severity of the setbacks to the economy experienced in 1951 and again between 1955 and 1957, no fundamental concern with the adequacy of the machinery or instruments of economic policy was engendered in their aftermath, the crisis of the summer of 1961 was accompanied by their sustained and critical examination, culminating with the establishment of a national planning council, the National Economic Development Council (NEDC).

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35 Pollard, op.cit., p. 476.

From a position best characterised as one of "holding the ring" in which the Government had restricted itself to intervening through monetary and fiscal policies to achieve specific goals such as full employment and a stable balance of payments, the return to "planning" implied sustained discriminatory intervention in an attempt to achieve continuous economic expansion.[36]

The primary impetus for this change of approach stemmed from leaders of industrial opinion in large scale private and public industries and was popularised by the industrial associations.[37] "The word 'planning', which for a decade or more had seemed to be a dirty word to Conservatives, paradoxically came to be upgraded by such bodies as the Federation of British Industries."[38] The endorsement and advocacy of planning by industry was based on its perception of the Government's engagement in stop-go policies as inimical to its own engagement in long-term planning and was reinforced by the unfavourable comparisons which were being drawn between the economic performances of the United Kingdom and the member states of the European Economic Community.[39] "By the spring of 1960 the opinion was rapidly spreading in British industry that the Government's economic policies, and the recent restrictions in particular, were operating against industry's long-term interests and were upsetting rather than stabilising the economic situation."[40]

Having identified the problem as being one of the manner of the Government's intervention in the economy, it did not necessarily follow that industry should advocate planning, which implied greater government

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36 Harris, op.cit., pp. 133-4.

37 Daalder, op.cit., p. 229.

38 ibid. p. 230.

39 Blank, op.cit., pp. 154-5. Lereuz, op.cit., p. 84.

40 Blank, op.cit., p. 142.

intervention in the economy, as a solution to the problem. Its support for planning stemmed from an acceptance of the impossibility of a reduction of the level of intervention in the economy and from the association of two beneficial consequences with its adoption. Firstly, planning was regarded as providing the expansionist key to breaking free from the constraints imposed by the balance of payments, the exchange rate and the commitment to full employment. "Inflation could be contained within a full employment economy only if the economy grew at a more rapid rate: "in our priorities, growth comes first, because given growth all else can follow - stable prices, high employment, exports and a secure balance of payments." Attempts to hold down the level of demand and to restrict economic activity merely intensifies the basic inflationary problem in the long run."[41] Growth, in turn "implied a more efficiently organised economy. Some form of organisation, some form of economic planning, anathema in British industry for at least a decade, was now viewed by growing numbers of industrial figures as the necessary foundation for more rapid growth."[42] Secondly planning was viewed as providing the means whereby industry could regain the influence with Government which it had progressively abandoned during the nineteen-fifties. Industry, having attempted to re-establish its independence from Government now discovered that it "had neither gained independence from Government nor did it have the ability to influence those policies that most concerned - and injured - it. Given the impossibility of reducing the governmental role in the economy there were strong incentives to devise new means through which industry could more effectively influence its policies."[43] Acceptance of this analysis of the problem was promoted

41 ibid., p. 152.

42 ibid., p. 151 and Leruez, op.cit., p. 88.

43 Blank, op.cit., p. 154.

initially by a small group under the leadership of Hugh Weeks, Chairman of the Federation of British Industries' Economic Policy Committee and culminated with the Brighton Conference sponsored by the FBI in November 1960. By the summer of 1961 acceptance of the idea of indicative planning was widespread within industry and discussion of the establishment of a planning council had started.

The interest in planning shown by industry was also paralleled in government and was reflected in growing uncertainty over the adequacy of the existing machinery and tools of economic policy. In July 1958 the Select Committee on Estimates criticised the ad-hoc, piecemeal and uncoordinated control by the Treasury of public expenditure.[44] Its criticisms led to the establishment of a departmental committee under the chairmanship of Lord Plowden which emphasised the need for longer-term planning of public investment because of its importance both to the public sector where short-term changes in investment could not be effected without detrimental consequences to the industry concerned and the economy as a whole, and as a counterweight to the largely short-term budgetary approach of the Treasury.[45] Organisationally this shift towards medium-term planning of public investment led to the establishment of a Management of Public Expenditure Committee to assist the Chancellor of the Exchequer in the production of a quinquennial "rolling programme" of public expenditure,[46] and in July 1962 to the reorganisation of the Treasury in the light of the criticisms of the Select Committee on Estimates and the Plowden Committee.[47]

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44 6th Report from the Select Committee on Estimates, Treasury Control of Expenditure. 1957-8. H.C. 254-1.

45 Control of Public Expenditure. 1961 Cmnd. 1432 and see: Ursula K. Hicks, Plowden, Planning and Management in the Public Services, 39 1961 Public Administration p. 299 and Public Investment in Great Britain. 1960. Cmnd. 1203.

46 Mackintosh (2nd edn.) op.cit., p. 503.

47 Chester, op.cit., pp. 351-3.

Two particular features of the proposed establishment of a national planning council merit further consideration. The first was the exceptional nature of the proposal, it did not represent the logical culmination of the gradual process of organisational reform which was by then under way. Rather had it not been for the economic crisis it is likely that the proposal would have not been made or at least considerably delayed.[48] As Shonfield emphasises, "the subsequent reorganisation of the Treasury in 1962 and the establishment of the National Economic Development Council were the result of separate and, in important ways, competing initiatives in that the National Economy Group of the Treasury was given the same responsibility in longer-term economic planning as the NEDC.[49] Secondly, the Government's acceptance of planning was marked by its rapidity; it "bore all the signs of one of those sudden ideological waves which periodically seem to sweep through Whitehall."[50] In explaining the exceptional nature of the proposal and the rapidity with which it was made, the overwhelmingly short-term political impetus for the Government's conversion to planning is of primary importance. In reacting to renewed speculation against sterling and in an industrial and political climate which was largely hostile to the continuation of stop-go policies, the Chancellor of the Exchequer, in his "Little Budget", sought to offset the same disinflationary policies as had been pursued previously and the imposition of a highly unpopular "pay pause" with a commitment to economic growth which implied acceptance of a measure of planning. "The decision to set up Neddy should ... be seen as a last despairing effort by the Chancellor to show that the Government did have a long-term strategy despite the note of panic in the measures he was announcing."[51]

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48 Leruez, op.cit., p. 92.

49 Shonfield, op.cit., pp. 105-6.

50 ibid., p. 102.

51 Leruez, op.cit., p. 92.

In the longer-term the Government's acceptance of planning and the subsequent establishment of the NEDC were of significance in that they entailed a recognition by the Government of the necessity of involving groups outwith it, and in particular industry and the trade unions, in the formulation and implementation of economic policy; a view which, as we have seen, was shared by industry and which constituted one of the prime reasons for its advocacy of planning. The setting up of the NEDC institutionalised that process of consultation which had been an inherent feature of the Labour Government's voluntarist approach to its relationship with industry and which had been less systematically engaged in by its Conservative successors. The establishment of the NEDC Daalder concludes "was unmistakeably a political step. It was caused by the Government's wish "to do something" (or at least to appear to do something) about economic growth. It was intended to take economic policies out of politics, as seems to have been achieved so successfully in France."[52]

In his Budget speech on 25th July the Chancellor of the Exchequer somewhat uncertainly committed the Government to an acceptance of planning. "I shall deal, first, with growth in the economy. The controversial nature of planning at once arises. I am not frightened of the word." Referring to the Economic Planning Board and the National Production Advisory Council on Industry he continued, "I think the time has come for a better coordination of these various activities. I intend to discuss urgently with both sides of industry procedures for pulling together these various processes of consultation and forecasting with a view to better coordination of ideas and plans."[53] In the joint

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52 Daalder, op.cit., p. 237.

53 Hansard, 5th Sers. H.C. Debs. vol. 645, Col. 222 25th July 1961.

discussions which followed agreement was reached on the establishment of a new two-tier advisory body on economic growth, the National Economic Development Council served by a National Economic Development Office, but the participation of the trade unions was not secured until the termination of the "pay pause". The NEDC replaced the Economic Planning Board and the Council on Prices, Productivity and Incomes and met for the first time on 7th March 1962.

As we have seen planning for economic growth implied sustained discriminatory intervention in the economy in the attainment of previously determined objectives. The Government's commitment to it therefore appeared to represent a shift from reactive to active sustained intervention. Analysis of its proponents' conception of planning suggests, however, that both government and industry were unwilling to face the implications of the commitment and that the ill-defined conception of planning held by them reflected that unwillingness. Blank states that in general, "planning remained an extremely vague term, loosely used to cover the whole spectrum of policies from the coordination of existing industrial programmes to the preparation of an integrated growth plan for the whole economy. The implications of any really meaningful form of economic planning were hardly comprehended."[54] For industry, planning was seen primarily as a means of increasing its influence on the formulation of economic policy and as restricted in scope to the public sector. "A "plan" would apply at best to government spending alone. For the private sector there would be merely "targets" determined by the industries themselves and accepted voluntarily as goals."[55] For the Government, its conversion to planning and the establishment of the

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54 Blank, op.cit., p. 169.

55 ibid., p. 168.

NEDC were seen, in the short term as a solution to a political crisis and, in the long term, as a means of involving industry and the trade unions in the formulation and implementation of economic policy. "For the Government, Neddy's value lay primarily in its ability to organise industrial opinion and not in the creation of a rival policy-making body or a new national forum on economic policy."[56]

The differences which existed between industry and the Government were, however, overshadowed by two areas of fundamental consensus. Firstly that the two sides of industry should be more closely involved in the formulation of economic policy and secondly that planning should be non-coercive. For both industry and the Government the acceptance of planning was "predicated upon its non-imperative character".[57] An emphasis upon the absence of coercion was therefore a feature of both the Conservative and Labour Governments' engagement in planning. In the case of the former, the emphasis, while similarly the expression of a fundamental preference, in addition illustrated the unwillingness of the Government to face the implications of the commitment made and was reinforced by a misunderstanding of French "indicative planning" which it was wrongly assumed consisted simply of voluntary tripartite coordination. "For all the new appeal of "planning", neither the Conservative Government nor private enterprise was prepared to adopt or reimpose new economic controls. But economic growth cannot be produced solely by expert calculations or monthly meetings of leading industries' representatives, no matter how

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56 ibid., p. 173.

57 Hayward and Watson, op.cit., p. 13.

indicative or persuasive they may be."[58] The operation of the NEDC until the general election revealed the lack of fundamental change in the Government's approach to the economy. Although its establishment led to important initiatives in planning at the level of individual industries, the formation of Economic Development Committees,[59] it mainly "continued to operate within the context of short-term pragmatic adjustments."[60]

(ii) General Economic Policy Between 1951 and 1964

The problems and objectives of economic policy remained broadly unchanged between 1951 and 1964, the main stimuli governing the formulation of economic policy continuing to be full employment, a stable balance of payments and the maintenance of the value of sterling to which was added, during the latter part of the period, the control of inflation. The conflicting nature of these objectives and the differing priorities attached to their attainment were most clearly expressed in the emergence of the stop-go cycle in economic policy, and in an attempt to reconcile and simultaneously realise them, the Government sought an additional objective, economic growth, in the belief that the other objectives would stem from its attainment.

(a) The Control of Inflation

The steady increase in the price level between 1951 and 1964 was almost wholly generated within the economy and not, as between 1945 and 1951, by external forces.[61] Two types of explanation for the continuation of inflation were advanced during this period. The first, demand-pull,

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58 Daalder, op.cit., p. 237.

59 infra.

60 Harris, op.cit., p. 242.

61 Oppenheimer, op.cit., p. 139.

identified the root cause as being excessive demand within the economy for goods and services which bid up their price and that of labour.[62] The appropriate prescription was seen as disinflation which would reduce the level of demand, thereby removing the pressure to concede wage demands through the resultant increase in unemployment. The alternative analysis, cost-push, argued that higher import costs led to higher prices, a demand for higher wages and the development of a cost-price spiral. The attempt to maintain the value of real wages in the face of continually rising prices without an increase in productivity led to a persistent upward trend in both prices and wages.[63] The appropriate prescription in the case of cost-push inflation remained ill-defined, but in so far as the cost to which inflation was attributed was that of labour, discussion centred on the development of a national wages policy.

Although it was probable that between 1951 and 1964 the former type was decreasing, and the latter type increasing, in importance, the Conservative Government did not distinguish between them but instead combined appeals for voluntary wage restraint with pursuit of the disinflationary alternative in times of economic crisis. Neither alternative was pursued to an extent sufficient to determine the validity of the assumptions upon which it was based (in the case of the former because its consequences were regarded as politically unacceptable)[64] and as with its reliance on monetary policy[65] the Government appeared reluctant to visibly assume the responsibility for choices and to prefer instead to assume that private initiatives were coincident with the public interest. By the end of its period of office, however, it appeared committed to a permanent wages policy.[66]

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62 Worswick, op.cit., p. 53.

63 ibid., pp. 53-4.

64 Beer, op.cit., p. 360.

65 supra., p.

66 Harris, op.cit., pp. 155-6.

An initial attempt to implement a policy of wage restraint in 1952 failed largely as a result of the unwillingness of the Government to contemplate the possibility of conflict with the unions,[67] and it was not until after the balance of payments crisis of the summer of 1955 that an attempt was made to secure a renewal of Sir Stafford Cripps' wage restraint bargain. An initiative from the British Employers Confederation offering price and dividend restraint in return for the moderation of wage claims was reluctantly backed by the Federation of British Industries but rejected by the trade unions.[68] Efforts to secure restraint of wages and prices were intensified during the following spring and in March the Government issued a White Paper entitled the Economic Implications of Full Employment which argued that full employment and price stability could only be combined "if trade unions and employers exercise self-restraint in making wage claims and fixing profit margins and prices."[69] The case for self-restraint was unaccompanied by any attempt at defining the level of settlements which would best serve the public interest and relied for its attainment on the arguments adduced in its favour and acceptance of "the full duties of citizenship which [their] realisation places upon them."[70] This appeal to patriotism was rejected by both the employers and the trade unions whose reasoning, although based on different premises, led to the same conclusion; that the responsibility for inflation lay with the Government.

After the Budget presented in April the Government made sufficient concessions to industry and the employers in the form of a period of

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67 K.G.J.C. Knowles, Wages and Productivity, in Worswick and Ady, op.cit., p. 504.

68 Blank, op.cit., pp. 128-33.

69 1956. Cmd. 9725.

70 Quoted in Worswick, op.cit., p. 38.

price restraint in the nationalised industries and cuts in public expenditure to secure their support for a "price plateau".[71] Equivalent concessions were not made to the trade unions and the basis which existed for agreement was eroded by the reduction of subsidies and the refusal to use controls. The conditions to an agreement by both sides of industry were, however, inter-related; the commitment to the price plateau being dependent upon the stabilisation of costs of which the most important was that of labour. In September the TUC rejected the policy of wage restraint and in the following month the Government, although its refusal to make sufficient concessions to secure agreement with the trade unions appeared to indicate a greater readiness to contemplate major strikes as the cost of securing price stability, reversed its position and put pressure on employers to concede many of the claims being made.[72]

The Government's vacillation between attempts at formulating a bargain for the restraint of prices and wages and pursuing a policy of confrontation with the trade unions was offset by its continued reliance upon the credit squeeze, which developed into a policy of monetary disinflation in September 1957. An earlier attempt by the Chancellor of the Exchequer, Peter Thorneycroft, to introduce an incomes policy as an alternative to it was rejected by the Cabinet.[73] Paradoxically therefore, the temporary shift from full employment to price stability as the priority of economic policy presaged by the "September Measures" was preceded by the establishment of the "vestigal remnant" of that attempt,[74] a Council on Prices, Productivity and Incomes to keep under review changes in prices, productivity and the level of incomes. In

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71 Beer, op.cit., pp. 364-5.

72 Blank, op.cit., pp. 135-6.

73 Brittan, op.cit., pp. 187-8.

74 ibid.

September the Council argued that inflation was a consequence of an excess of demand and it accordingly advocated and endorsed the policy of monetary disinflation. Although it therefore added weight to the policy being pursued, its utility to the Government was considerably diminished as a result of its subsequent boycott by the TUC and its unwillingness, because of its endorsement of disinflation, "to take upon itself the odium of producing a guiding light" for wage claims and in 1961 was dissolved.[75]

The imposition of a six month "pay pause" in July 1961 was once again unaccompanied by sanctions although the Government committed itself to its observance in arriving at settlements in the public sector. In his statement in July the Chancellor of the Exchequer stated that the "pay pause" would be replaced upon its lapse with a long-term policy which would relate wages to productivity[76] but as a condition of TUC participation in the NEDC the growth of incomes was not included within its terms of reference.[77] In response to criticism of the omission and in an attempt to overcome the inadequacies of presentation of the longer-term strategy of a 2½ per cent "guiding light" which it had subsequently elaborated,[78] the Government, in July 1962, proposed the establishment of a permanent advisory body on incomes, the National Incomes Commission.

The establishment of the NIC was disapproved of by industry on the grounds that it harmed relationships with the trade unions in the NEDC and separated the question of incomes from the issue of economic growth,[79] and opposed by the TUC which refused to cooperate with it despite

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75 ibid.

76 Hansard, 5th Sers. H.C. Debs. Vol. 645, Col. 229, 25 July.

77 Daalder, op.cit., p. 234.

78 Incomes Policy: The Next Step, 1962 Cmnd. 1626. It was "a triumph of obscurity and an object of derision even in the Treasury corridors." Brittan, op.cit., p. 239.

79 Blank, op.cit., p. 179.

the considerable circumscription of its terms of reference by the Government.[80] Neither the short-term "pay pause" nor the longer-term "guiding light" were markedly successful, both being breached in the determination of wage settlements. Nevertheless their significance lay not in their immediate efforts but rather in the shift in political attitudes which they represented. Despite its earlier inconsistency and its continued unwillingness to contemplate the imposition of direct sanactions, by the end of its period of office the Conservative Government appeared committed to a wages policy as a permanent feature of its domestic economic policy.

(b) Control of the Balance of Payments

The removal of one of the main pressures on the balance of payments, the dollar shortage, and a significant improvement in the terms of trade were insufficient to offset the weakness of the United Kingdom's competitive position which was reflected in the balance of payments.[81] The Government's commitment to the maintenance of the external value of sterling meant therefore that the balance of payments became one of the primary determinants of economic policy.

The general trend after 1952 was towards a relaxation of direct restrictions on imports and was in accordance with the pattern of trade liberalisation. Economic legislation in relation to the balance of payments consisted of the incremental development and codification of existing policies combined with reaction to unforseen circumstances as in 1956 when customs duties were imposed on oil imports in the wake of the Suez crisis[82] and in the following year when the Board of Trade was empowered by the Customs Duties (Dumping and Subsidies) Act 1957 to

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80 ibid. The National Incomes Commission 1962. Cmnd. 1844.

81 Pollard, op.cit., p. 449.

82 Hydrocarbon Oil Duties (Temporary Increase) Act 1956.

impose anti-dumping duties on imported goods where it was satisfied that such dumping was taking place and that their imposition was in the national interest.

In relation to imports the Import Duties Act 1958 clarified and codified the existing law relating to protective duties and empowered the variation of duties to protect industries. In encouraging exports the Government relied on a policy of "indiscriminate exhortion" coupled with the provision of subsidies and guarantees.[83] The work of the Export Credits Guarantee Department continued to increase throughout the period and in 1958 the Department was upgraded.[84] The limits on guarantees were progressively increased from £500 millions to £1,500 millions in the case of general guarantees and from £100 millions to £1,300 millions in the case of "special" guarantees, their increase being concentrated towards the end of the period.[85]

(c) Control of Investment

As with direct controls over imports and exports the general trend after 1951 was one of a gradual relaxation of controls over borrowing upon which were superimposed period of renewed restrictions. The control exerciseable over access to the capital market through large-scale borrowing and share issues under the Borrowing(Control and Guarantees) Act 1946 was initially relaxed before being increased between March 1956 and July 1958 when the limit above which share issues could not be made without the consent of the Treasury was lowered from £50,000 to £10,000. Thereafter it was relaxed before being suspended, except for overseas issues, in February 1959.

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83 Worswick and Ady, op.cit., pp. 83-4.

84 Chester, op.cit., p. 356.

85 Export Guarantees Acts, 1952, 1957, 1959, 1961 and 1964.

With the recognition of the detrimental consequences of the manipulation of public investment for short-term counter-cyclinal purposes[86] the need for greater control over the volume, timing and scope of private investment was re-emphasised.[87] The gradual abandonment of physical controls, such as building licensing, therefore meant that fiscal and monetary controls became the main means of stimulating and dissuading private investment.[88] Fiscal policy, in the form of initial and investment allowances, was also used for the long-term purpose of increasing the porportion of the national income devoted to investment within the economy.[89] Initial allowances were first introduced in 1949 and enabled the increase of the depreciation allowance for the first year of a new investment. Investment allowances were introduced in 1954 and operated in effect as a subsidy to investment.[90] Their introduction is described by Beer as "the most important example in the 1950's of the deliberate use of fiscal policy to further a specific end of economic policy."[91] Both incentives were used discriminatorily to encourage investment in specified types of economic activity.[92]

(d) Overseas Development

After 1951 the operation of the Colonial Development Corporation was restricted partly as a result of a change in policy and partly as a result of the failure of certain schemes.[93] The enactment of the

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86 Public Investment in Greaty Britain 1960 Cmnd. 1203.

87 Supra., and see Grove, op.cit., p. 479.

88 I.M.D. Little, Fiscal Policy, In Worswick and Ady, op.cit., pp.248-9.

89 ibid.

90 Finance Act 1954, section 16.

91 Beer, op.cit., p. 258.

92 ibid.

93 After the failure of the groundnut scheme the Overseas Food Corporation was dissolved and the remainder of its undertakings were transferred to the Tanganyika Agricultural Corporation under the Overseas Food Corporation Act, 1954.

Overseas Resources Development Act 1954 to retrospectively resolve a dispute between the Government and the Corporation over the vires of its activities was followed by the reduction of its objectives to the assistance of "colonial territories in accordance with the provisions of this Act, in the development of their economies."[94] The Corporation's financial resources were increased from £100 millions to £130 millions and its borrowing powers extended by £50 millions by the Overseas Resources Development Act 1958.[95] In 1963 the growth in size of the Commonwealth and the reduction in the number of colonies were symbolised by the change of the Corporation's designation to the Commonwealth Development Corporation.[96]

The activities of the Colonial Development Corporation were supplemented throughout the period by the provision of loans under Treasury guarantee from the International Bank for Reconstruction and Development to colonial governments, the limits of which were successively extended by the Colonial Loans Act 1952 and 1962 to £150 millions. In addition expenditure on schemes under the Colonial Development and Welfare Acts was initially increased to an annual maximum of £30 millions in 1955 and, following the Commonwealth Trade and Economic Conference in 1958, by a further £95 millions for the period until 31st March 1964. At the same time loans totalling £100 millions in aggregate were made available for development programmes over the same period.[97] In an attempt to coordinate, rationalise and organise the provision of aid to the developing countries a Department of Technical Cooperation was established in 1961.[98]

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94 Overseas Resources Development Act 1956 s.1(1).

95 The legislation was consolidated by the Overseas Resources Development Act 1959.

96 Commonwealth Development Act 1963.

97 Colonial Development and Welfare (Amendment) Act 1959. The Colonial Development and Welfare Act 1959 consolidated the previous legislation.

98 Department of Technical Cooperation Act 1961.

13. INDUSTRIAL POLICY BETWEEN 1951 AND 1964

For the greater part of the period between 1951 and 1964 Conservative industrial policy existed in the mainly negative sense, which was consistent with the policy of "holding the ring", of establishing a competitive climate for the conduct of economic activity, a policy which was typified by the Restrictive Trade Practices Act 1956. Apart from the furtherance of research,[1] and the provision of investment incentives the Government exhibited, at best, a fleeting concern with the efficiency and productivity of specific industrial sectors until after the establishment of the NEDC. The absence of a long-term policy of purposive intervention in industry did not remove the continuing pressure on the Government to intervene in the economy stemming from its political commitments, but meant that intervention during this period had a characteristically inherent tendency, which was similarly evident after the balance of payments crisis of 1947, towards being essentially defensive, opportunistic, extemporising, crisis-management, a tendency which reinforced the emphasis placed upon short-term results at the expense of consideration of long-term problems.[2]

Government intervention in industry increased over the period between 1951 and 1964. The concentration of that increase towards the end of the period reflected the weakening of the Government's own earlier held tenets, its fear of unemployment and the decline of industry's confidence over its own prospects which resulted in a revision of its attitudes towards the role of government in the economy.[3] Although the

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1 Development of Inventions Acts 1953 and 1958.

2 Henderson, op.cit., pp. 375-6.

3 Harris, op.cit., p. 206.

greater part of the development of the Government's policies towards industry can be traced through the economic legislation of the period, the Government had recourse to extra-legislative forms of intervention, the best example of which was its "drastic reorganisation" of the aircraft industry which was achieved solely as a consequence of its monopsonistic power.[4] In examining the development of the Government's policies towards industry we are necessarily restricted to its legislative intervention and their development will be traced through the examination of four areas; nationalisation, sectoral policies, development councils and restrictive trade practices and monopolies.

(i) The Nationalised Industries

Apart from its pledge to denationalise the iron and steel and road transport industries, the Conservative Government entered office without a defined or distinctive policy towards the public sector. During its period of office the liberal conception of the public sector as consisting of largely autonomous, decentralised and self-financing units governed in their operation by strictly commercial criteria, which its initial pursuit of decentralisation suggested, was increasingly contradicted by its use of the public sector as an instrument for the pursuit of national economic objectives.[5] Government intervention in the pricing and investment decisions of the industries was coupled in 1956 with the acceptance by the Government of responsibility for meeting their capital requirements which, with the exception of coal which was Exchequer financed, had been met previously through borrowing or the issue of stock under Treasury guarantee, a development which

4 Henderson, op.cit., pp. 361-8.

5 Harris, op.cit., pp. 181-2.

enabled the Treasury to control the total and timing of Government borrowing from the market.[6]

The assumption by the Government of responsibility for meeting their borrowing requirements precluded the establishment of control over their activities through the market and the recognition of the extent and prejudicial consequences of government intervention in their decisions prompted the intensification of backbench efforts to establish a measure of parliamentary control over their activities. After an initial failure a Select Committee on Nationalised Industries was established in November 1956.[7] Its reports publicised the extent and shortcomings of government intervention in their activities and in conjunction with the more widespread recognition of the limitations of intervention as a means of influencing global economic activity and its adverse consequences on the industries, prompted a reconsideration of their role and relationship with government.

The limitations of intervention in the decisions of the nationalised industries were recognized in the White Paper, Public Investment in Britain[8] which envisaged the taking of decisions on the allocation of resources on a medium term basis and which included a statement of investment plans for a year ahead. It was followed by a policy statement, The Financial and Economic Obligations of the Nationalised Industries,[9] in which the criteria governing the operation of the industries were set out. The principal criterion was commercial, the industries were expected to balance their accounts over a period of five years and to earn a rate of return on invested capital of between

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6 Finance Act 1956 s.42. The reform was initially envisaged as being temporary but was extended for a further six months by the Nationalised Industries Loans Act 1958 and was thereafter extended annually by successive Finance Acts. Grove, op.cit., pp. 248-9.

7 D. Coombes, The Scrutiny of Ministers' Powers by the Select Committee on Nationalised Industries, 1965, Public Law, p. 9.

8 1960 Cmnd. 1203.

9 1961 Cmnd. 1337.

five and eight per cent. Although it was recognised that the industries had in addition social obligations which necessarily could not be governed by strictly commercial criteria alone no attempt was made in the White Paper to distinguish these obligations or to determine the criteria governing their fulfillment. "It codifies the muddles of Whitehall thinking, and evades decisive judgements in the fields where it might be though the business of Government to decide."[10]

Although, therefore, the re-examination of the role of the public sector and the relationships between it and Government appeared to afford the prospect of a mitigation of some of the more injurious consequences of the relationship in the past, the Government remained unprepared to renounce its practice of intervening and the contradiction between the liberal conception of the public sector and the Government's practice in relation to it remained unresolved at the end of its period of office.

(a) Iron and Steel

The Conservative Government was slow to implement its pledge to denationalise the iron and steel industry. Its intention to do so was reaffirmed in November 1951 but its proposals were not published until July 1952.[11] Its proposals, which were subsequently implemented in the Iron and Steel Act 1953 envisaged the dissolution of the Iron and Steel Corporation and the transfer of its existing holdings to an Iron and Steel Holding and Realisation Agency charged with their return to private ownership.

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10 D.L. Munby, The Nationalised Industries, In Worswick and Ady, op.cit., p. 416.

11 The Iron and Steel Industry. Cmd. 8619.

Significantly, their return to private ownership was not justified on the grounds of the undesirability of public monopoly or the benefits of competition. Instead the Act "attempted to recreate the status quo ante, and revive the continuity of the tradition begun by the IDAC-BISF relationship in the 1930's."[12] A measure of public supervision of the activities of the industry was retained through the establishment of an Iron and Steel Board which was empowered to fix maximum prices and output and distribute materials and products. The return of the industry to private ownership had therefore more to do with the symbolic significance which its nationalisation had attained during the Labour Government's period of office[13] than considerations of its efficiency under either form of ownership. "Neither party", Harris comments, "seriously disagreed over the economics of the industry, and Conservative intentions for the private industry were hardly distinguishable from the de facto operation of the industry under State ownership."[14]

(b) Transport

The Conservative Government's commitment to denationalise the road transport industry was implemented in the Transport Act 1953 which provided for the dissolution of the Road Haulage Executive and the establishment of a Road Haulage Disposal Board to supervise the disposal by the Road Transport Commission of the undertakings under its control. Its inability to do so and the subsequent recognition by the Government of the value to industry of the trunk service network operated by British Road Services led to the retention of a considerably greater

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12 Harris, op.cit., p. 189.

13 supra., p.

14 Harris, op.cit., 74, p. 187.

proportion of the existing holding than had been provided for by the Transport Act 1953.[15]

The Transport Act 1953 Professor Daintith states "marked the substitution of a policy of competition between different modes of transport for that hitherto of co-ordination of all modes of inland transport under the aegis of the Commission; but it preserved the Commission's unified control of the public sector."[16] The change symbolised by the Transport Act 1953 was, however, more one of emphasis than of governing principle. Co-ordination, although a principle underlying the nationalisation of transport in 1947, was not pursued in the implementation of the legislation and although the trend under the Conservative Government was towards a relaxation of existing statutory restrictions on both publicly and privately owned forms of transport, the emphasis on competition did not prevent the intrusion of other considerations in the formulation of the Government's policy towards transport.[17]

Organisationally, the Transport Act 1953 while leaving the Commission's unified control undisturbed provided for a considerable measure of decentralisation through the abolition of the remaining Executives with the exception of London Transport, and their replacement by area and management boards. Concentration on organisational reform appeared, however, to bear little relationship to the problems which industries faced both within their economic context and in their relationship with government. In the case of the railways recurring deficits compelled the provision of Exchequer aid to the Commission in

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15 Transport (Disposal of Road Haulage Property) Act 1956.

16 T.C. Daintith, Public and Private Enterprise in the United Kingdom, in W. Friedmann (ed), Public and Private Enterprise in Mixed Economies (1974), p. 204.

17 Munby, op.cit., p. 398.

1957 and 1959.[18] The continuation of these deficits did not lead to a re-examination of the criteria governing the operation of the railways but instead to further decentralisation. The Government's proposals for the dissolution of the British Transport Commission and the assumption of its responsibilities by separate boards, set out in the White Paper, Reorganisation of the Nationalised Transport Undertakings,[19] were implemented by the Transport Act, 1962.

(c) Civil Aviation Air Transport

Between 1951 and 1950 the private sector of the civil aviation air transport industry increased in importance, a development which signified the de facto erosion of the statutory monopoly conferred on the public corporations BOAC and BEA by section 24 of the Air Corporations Act 1949. Competition with the public corporations was secured through the appointment of approved private airlines as "associates" of the corporations thereby enabling their operation on scheduled routes. The partial licensing of private airlines through their appointment as "associates" was of doubtful legality; the provisions of the Act being used "to secure not private supplementation of public services, as the framers of the Act had intended, but private competition with them."[20]

The selected development of the private airlines under the protective umbrella afforded by the public corporations was furthered by the concession to them in 1960 of equality of access to scheduled routes served by BOAC and BEA for which they had been pressing. The Civil

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18 The limit on borrowing by the Commission had been set at £600 millions by the Transport (Borrowing Powers) Act 1955. It was extended to £1200 millions by the Transport (Borrowing Powers) Act 1959 which in addition increased the amount of aid available to the railways from the £250 millions set by the Transport (Railway Facilities) Act 1957.

19 1960 Cmnd. 1248.

20 Daintith, op.cit., p. 227.

Aviation (Licensing) Act 1960 terminated the exclusive right of the public corporations to operate scheduled air services and resolved the question of the associate airlines' legal status through the establishment of a new air service licensing procedure for all routes under which all operators would require a licence from a new authority, the Air Transport Licensing Board. Although the Minister was empowered to give the Board directions as to the performance of its functions and to hear appeals from its decisions, the absence in the Act of any statement of clearly defined policy objectives or imposition upon the Minister of the duty to formulate policy created confusion over where the responsibility for the formulation of civil aviation air transport policy lay and suggested that the establishment of the Board had been conceived of by the Government as a means of avoiding responsibility.[21]

(d) Fuel and Power

The Ridley Committee on National Policy for the use of Fuel and Power Resources argued against the co-ordination of existing policies towards the fuel and power industries and the characteristic feature of their development during the period was one of unco-ordinated and limited competition between them.[22]

(i) Electricity and Gas

In the continuously expanding electricity industry the Government's commitment to decentralisation was illustrated by the Electricity Reorganisation (Scotland) Act 1954 which provided for the amalgamation

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21 S. Wheatcroft, Air Transport Policy (1964) pp. 156-61. In this respect the establishment of the Board bore a strong similarity to the establishment of the Restrictive Practices Court, infra., apart from the Act of 1960 the only other legislative interventions were successive Air Corporations Acts which extended the borrowing powers of the public corporations. Air Corporations Acts, 1953, 1956, 1960, 1962 and 1964.

22 1952 Cmd. 8647.

of the South-East and South-West Scotland Area Boards to form the South of Scotland Electricity Board with responsibility for the generation, transmission and distribution of electricity, and for the transfer of responsibility for the Board to the Secretary of State for Scotland. The Herbert Committee which was appointed in 1954 reported unfavourably on the existing organisation of the industry, arguing that it was over-centralised and that the combination of executive and supervisory functions by the Central Electricity Authority was wrong. It recommended the separation of the function of generating and distributing electricity from that of co-ordinating and controlling the activities of the industry.[23] Its proposals were largely accepted by the Government [24] and implemented in the Electricity Act 1957 which provided for the establishment of a Central Electricity Generating Board with responsibility for the generation of electricity and for the granting of greater autonomy to the Area Boards in the distribution and sale of electricity. The Committee and the Government disagreed over the functions of the proposed Electricity Council and it was restricted to responsibilities similar to those exercised by the Gas Council rather than, as had been recommended by the Committee, the co-ordination and control of the activities of the industry.

Of the fuel and power industries nationalised by the Labour Government, the gas industry was the least centralised and its organisation remained unchanged throughout the Conservative Government's periods of office. The borrowing powers of both industries were

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23 Report of the Committee of Inquiry into the Electricity Supply Industry 1956 Cmd. 9672.

24 Proposals for the Reorganisation of the Electricity Supply Industry 1956 Cmnd. 27.

extended by successive Acts of Parliament; the Electricity (Borrowing Powers)(Scotland) Act 1952, the Hydro-Electric Development (Scotland) Act 1952, the Gas and Electricity (Borrowing Powers) Act 1954, the Electricity Borrowing Powers Act 1959, the Gas Act 1960 and the Electricity and Gas Act 1963.

(ii) Coal

The degree of centralisation in the coal industry had not been prescribed in the Coal Industry Nationalisation Act 1946 and the implementation of the recommendations of the Fleck Committee, who considered the management of the industry to be excessively decentralised, did not therefore require recourse to legislative amendment. The industry was initially dominated by the necessity of expanding production as quickly as possible to overcome the coal shortages, but its fortunes changed dramatically in 1958 with the emergence of what appeared to be a permanent surplus of production. Opencast mining which had previously been carried out under the Emergency Powers Acts was placed on a statutory basis in the same year by the Opencast Coal Act 1958. After 1958 the Government, in addition to intervening in the pricing and investment decisions of the industry, attempted to delay the planned contraction of the industry to prevent unemployment and extended financial aid to the industry to cover its revenue deficits.[25]

(iii) Atomic Energy

In atomic energy recognition of its growing industrial potential and the consequently argued need for flexibility and speed of decision making lead to the transfer of responsibility for atomic energy from the

25 Coal Industry Acts 1961 and 1962. Its capital requirements were successively extended by the Coal Industry Acts 1956 and 1960.

Ministry of Supply to a statutory public corporation, the Atomic Energy Authority by the Atomic Energy Authority Act 1954.[26] In 1961 the Central Electricity Generating Board was empowered to exploit atomic energy in the generation of electricity.[27]

(ii) Sectoral Policies

(a) Cotton

The post-war boom in the cotton industry ended in 1951 when the pattern of decline punctuated by periodic crises was resumed. The Conservative Government's denial of responsibility for the future of the industry was initially tempered by the advancing of defence orders for textiles and the variation of the rate of purchase tax to increase domestic demand, but after the abatement of the crisis in 1954 its non-interventionist position was symbolized by the fulfillment of its election pledge to end the system of centralised buying of raw cotton by the Raw Cotton Commission.[28] Faced with a new crisis in 1955 and under pressure from its own supporters to intervene the Government refused to introduce a greater degree of protection than already existed and underlined its commitment to non-intervention by the abolition of the discriminatory use of purchase tax in August 1955.

The uninterrupted sequence of decline in the industry and the recurrence of a crisis in 1958 resulted in a significant reversal in the Government's approach to the industry. Under pressure from the Lancashire Cotton industry to impose restrictions on the importation of textiles from Hong Kong, India and Pakistan, it declined to introduce unilateral restrictions but instead negotiated the voluntary limitation

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26 The membership of the Authority was increased by the Atomic Energy Authority Act 1959.

27 Electricity (Amendment) Act 1961.

28 Cotton Act 1954.

of exports by these countries to the United Kingdom. The establishment of quotas on exports from Commonwealth countries was followed by the decision of the Restrictive Practices Court in the Yarn Spinners case which, it was widely predicted, would lead to a reduction in the size of the industry,[29] and in April 1959 the Government announced proposals for the reorganisation of the industry.[30] In addition to their instrumental aspect, the attainment of profitability through reorganisation without recourse to further intervention, the Government's proposals had a political significance which was increased by the imminence of the General Election. Although the Government stressed the former aspect, "others, more cynically, saw it as an electoral tactic against Lancashire's Labour strongholds."[31]

The Government's proposals for the reorganisation of the industry combined two approaches; the elimination of excess capacity and the modernisation of the remaining plant and machinery. Initially, both approaches had been considered as alternatives but under pressure from the industry they were combined.[32] The Cotton Industry Act 1959 Miles comments, "was possibly the most elaborate and costly adjustment assistance programme limited to a single industry yet to be launched by any Government."[33] Section 1 of the Act provided that upon the preparation by the Cotton Board, "with a view to promoting the efficiency of the industry by the elimination of excess capacity", of schemes for its elimination in each section of the industry and their approval by

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29 Yarn Spinners Agreement, Re. 1959 L.R. I. R.P. 118.

30 Reorganisation of the Cotton Industry 1959 Cmnd. 744.

31 Harris, op.cit., p. 214-5. Support for Harris' view is provided by the concern shown by Harold Macmillan over the political situation in Lancashire in the spring of 1959. H. Macmillan, Riding the Storm 1956-9, (1971) p. 743 and see infra.,

32 Henderson, op.cit., p. 351.

33 Miles, op.cit., p. 192.

the Board of Trade, two-thirds of the cost of elimination would be met by the Government and the remaining third would be financed by the imposition of a statutory levy on the firms remaining in the industry. If sufficient capacity was eliminated section 2 provided for the payment by the Government of grants amounting to one quarter of the cost of modernizing existing plant and machinery. An ad hoc committee of the Cotton Board was charged with supervision of the implementation of schemes for the elimination of excess capacity.[34]

Section 1 was implemented more quickly than had been expected.[35] By March 1960 the number of spindles had been cut by half, (12,4 millions out of 25.3 millions) the number of looms by two-fifths (105,000 out of 259,000) and 300 mills had been closed completely. £12 millions in total was spent in compensation.[36] Section 2 of the Act had, however, considerably less impact than had been envisaged, a result that was largely attributable to the renewal of the depression in the industry between 1962 and 1963 when the industry reverted to pressing for the imposition of additional protection. The initial optimism which had greeted the implementation of the Act was therefore moderated by the continuation of the decline of the industry which cast doubt upon the sufficiency of the results achieved under the Act and the adequacy of the solutions which it had promoted. The Act, Miles concludes, "failed to achieve its stated objectives of restoring the Lancashire industry's competitive position or its profitability; and the pressure for import controls, far from being removed, was intensified and persisted throughout the 1960s. The best that can be claimed for it is that it provided "a catalyst for getting something moving in the industry..."[37]

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34 Cotton Industry Act 1959 section 3.

35 Pollard, op.cit., p. 422.

36 Miles, op.cit., p. 190.

37 ibid., p. 192.

(b) Shipbuilding

Government intervention in the shipbuilding industry was similarly concentrated at the end of its period of office. Following the announcement by Cunard Lines in 1958 that it was considering the replacement of the Queen liners and that it was referring the matter to the Government, the Government appointed a Committee under the chairmanship of Lord Chandos to consider the Company's proposals and subsequently it announced its intention of assisting their replacement in its election manifesto.[38] The committee recommended the provision of a loan not exceeding £18 millions to the Company but the Government departed from its recommendations in deciding to offer the Company £18 millions in both grants and loans at favourable rates of interest. The assistance of the construction of a successor to the Queens by the North Atlantic Shipping Act 1961 followed the precedent of the North Atlantic Shipping Act 1934, but the measure nevertheless attracted considerable criticism and the Government's promotion of it became a source of acute embarassment when, during the Committee stage of the Bill, Cunard announced postponement of the scheme.

Although the Government justified its assistance of Cunard on the grounds that the project was prestigous and financially viable, considerations of unemployment undoubtedly played a part and more evidently underlay the subsequent Shipbuilding Credit Act 1964 which was enacted against a background of excess capacity and unemployment in the industry. The Shipbuilding Credit Scheme embodied in the Act was the "personal notion" of the Chancellor of the Exchequer, Reginald Maudling,[39] and was intended to prevent unemployment and assist the utilisation of excess capacity for the duration of the recession through the provision of

38 Henderson, op.cit., p. 352.

39 Brittan, op.cit., p. 260.

loans totalling £75 millions until 31st May 1964 to shipowners willing to place orders with shipbuilding firms.

(c) Iron and Steel

By 1957 the Iron and Steel Holding and Realisation Agency had sold 86% of the assets vested in it by the Iron and Steel Act 1953. Generally the Government refrained from intervention in the industry with one major exception. The third development programme published by the Iron and Steel Board in 1957 proposed the establishment of a new continuous strip rolling mill to increase the productive capacity of the industry. The location of the proposed development became the subject of "strong local and departmental pressures" and was eventually decided by the Cabinet.[40] Confronted with the opposing claims of Wales and Scotland the Government compromised between them and decided to establish separate smaller mills in each location and to provide financial assistance to the state-owned Richard Thomas and Baldwin and the privately-owned Colvilles for their development. Its decision to do so in the case of Colvilles was widely criticised by its own supporters as an example of unjustified subvention[41] but was defended by the Government on the grounds of Scottish unemployment and the unavailability of private finance. Statutory authority for the Government's intervention was provided by section 5(3) of the Iron and Steel Act 1953 which empowered the Minister to provide additional productive facilities where the Iron and Steel Board could not in consultation with the iron and steel producers secure their provision. In the exercise of his powers under section 5(3) of the Act of 1953 the MInister of Power was authorised to make loans not in excess of £120 millions to Richard Thomas and Baldwin and Colvilles by section 1 of the Iron and Steel (Financial Provisions) Act 1960.

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40 Henderson, op.cit., p. 348.

41 Harris, op.cit., p. 220.

(d) Natural Resources

The most significant development in relation to natural resources between 1951 and 1964 was the vesting in the Crown of all rights to minerals and other resources exerciseable by the United Kingdom outside territorial waters (with the exception of coal which is vested in the National Coal Board) by Section 1 of the Continental Shelf Act 1964. In the case of forestry the Forestry (Sale of Land)(Scotland) Act 1963 was a minor amending Act which gave the Secretary of State for Scotland the same power to sell back to private ownership, for use for forestry purposes, land which had been bought for the Forestry Commission, as was possessed by the Minister of Agriculture in England and Wales under section 90 of the Agriculture Act 1947.

(iii) Development Councils

The Conservative Government retained two of the four development councils set up under the Industrial Organisation and Development Act 1947, the Cotton and Furniture Councils, and dissolved the remaining Clothing, and Jewellery and Silverware Councils. No attempt was made to promote the establishment of further development councils, but in early 1954, in an attempt to combine the advantages of development councils with a politically less contentious method for their attainment, it sought "to effect a modest extension of the Act."[42] Clause 1(1) of the Industrial Organisation and Development Bill 1954, which was read for the first time on 22nd January 1954, provided for the extension of the purposes for which a Minister could impose a compulsory levy on an industry in which a development council did not exist to include, in addition to the three purposes listed in Section 9 of the Act of 1947, the functions assignable to development councils listed in the first Schedule to the Act, the sole condition being that in the opinion of the Minister making the order

42 P.E.P. op.cit., p. 42.

the purpose for which the proposed levy was imposed tended to promote productive efficiency in the industry concerned. The Economist while noting that the Bill represented "a considerable and potentially beneficial strengthening of the original Act and a recognition by the Conservative Government of its usefulness", commented that it also represented, "a retreat from the idea of the development council; the greater the success of the alternative procedure, the less the need and the incentive for industry to reconsider its dislike of Sir Stafford Cripp's brainchild."[43]

Assessment of the impact of the measure was precluded, however, by its withdrawal on 2nd April 1954. The President of the Board of Trade, Peter Thorneycroft, attributed both its introduction and abandonment to pressure from industry. Its introduction, he stated, stemmed from a request from the Joint Clothing Council, a voluntary body which had replaced the development council on its dissolution, for the imposition of a levy on the industry for purposes other than those listed in Section 9 and its abandonment was a result of the subsequent lack of support within industry for the measure.[44] Clearly, however, the President of the Board of Trade was anxious to minimise the political embarrassment which the Government had suffered and his explanation ignored the role of Conservative backbenchers. They, the Economist commented, had "shied violently".[45] "Malcontents branded the Bill as "Socialism" and told Mr. Thorneycroft that his job was to reduce the area of interference with the industry, not extend it", thereby compelling the Government to reconsider the Bill "to save itself from public humiliation".[46]

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43 The Economist, 30 Jan. 1954.

44 Hansard, 5th Sers. H.C. Deb. vol. 525. Col. 2213, 1 April 1954.

45 The Economist, 27 Feb. 1954.

46 The Economist, 13 Feb. 1954, and see Mackintosh, op.cit., (3rd ed.) p. 594, and Harris, op.cit., p. 207.

Apart from illustrating the diversity of views on the relationship between the State and industry within the Conservative Party and in particular the strength of backbench opposition to any measure which hinted of "planning", the episode is of significance for two further reasons. Firstly, in view of the possibilities which an organisation consisting solely of producers would offer for the diminution of competition it is significant that the Government, unlike its Labour predecessor, made no provision for the introduction of independent representation or the imposition of restrictions on the powers of the nominated bodies. The Economist commented that there was "some reason to distrust the new Bill. In particular the possibility that a levy might be imposed on an industry for the promotion of cooperative supply organisations or the coordination of production, marketing and distribution (First Schedule. 14) could lend itself to an outburst of cartel mongering in the worst Tory tradition".[47] The Government's failure to do so suggests that its commitment to competition was by no means clear cut or firmly established at this stage.

Secondly, although we cannot guage accurately the extent or strength of the opposition within industry which it was claimed led to the abandonment of the Bill, the failure of industry to positively support the measure, in the context of the then favourable prospects for the economy, is consonant with our hypothesis that the success of such intervention is a function of the extent of economic depression. This is further borne out by the establishment of extra-statutory Economic Development Committees in individual industries between 1963 and 1964 to 'consider ways of improving the industry's economic performance, competitive power and efficiency and formulate reports and recommendations

47 The Economist 30 Jan. 1954.

in these matters as appropriate",[48] as a part of the planning initiative adopted in 1961. Significantly, legislation was eschewed and the conditions for their establishment, the consent of the three main parties involved was required, and the restriction of their powers to persuasion, parallelled the emphasis placed upon the building of a consensus and the avoidance of compulsion in the Labour Government's first intervention.

(iv) Restrictive Trade Practices and Monopolies

Our examination of the Industrial Organisation and Development Bill 1954 suggests that the Government did not have initially a strong commitment to the establishment of a competitive economic climate and this is supported by its exercise of its powers under the Restrictive Trade Practices (Inquiry and Control) Act 1948. In making references to the Commission it concentrated on restrictive trade practices in preference to monopolies as had its Labour predecessor and in the implementation of the Commission's reports it continued to rely on negotiation with the affected parties. In an attempt to quell criticisms of the slowness of the Commission's operation and to allay the uneasiness produced by the anti-competitive behaviour revealed in the Commission's reports the Government, in December 1952, made a general reference under section 15 asking the Commission to investigate and report on exclusive dealing, aggregated rebates, collective resale price maintenance schemes and other discriminatory trade practices, and made provision for an increase in the Commission's membership and its operation in separate panels to enable it to undertake a number of inquiries at the same time.[49]

These steps did not dispel the dissatisfaction with the adequacy of the existing legislation or the scepticism aroused by its negotiated

48 G.D. Vaughan, Economic Development Committees, 49 Public Administration (1971) pp. 363-83.

49 Monopolies and Restrictive Practices Commission Act 1953.

implementation.[50] The increasing public exposure and condemnation of restrictive trade practices and in particular of trade association courts and level tendering, by the press, and the imminence of the publication of the Commission's Report on Collective Discrimination added urgency to the Government's consideration of the adequacy of the legislation. The Report[51] which was published in June 1955, after the General Election was central to the subsequent amendment of the legislation in that its condemnation of the practices reinforced and gave further expression to public disapproval of them and compelled the adoption by the Government of a position towards them. Moreover the solutions which it proposed effectively marked the boundaries within which the amendment of the legislation was discussed. Its publication marked the cession by its opponents of the case for the amendment of the legislation, leaving open the crucial issue of the content of that amendment.

In its Report the Commission set out its view that a wide area of British industry was covered by "an infinitive variety of restrictive and discriminatory practices",[52] the operation of which, it concluded, was generally contrary to the public interest. The consensus which existed over the nature and extent of the problem did not extend to the question of its solution. A majority of the Commission considered that since no evidence had been uncovered to support the view that such practices had beneficial consequences they should be prohibited with only limited provision for their exception. "We believe it follows logically from the conclusion that the practices operate generally against the public interest that they should be generally prohibited."[53] The minority

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50 R.B. Stevens, Experience and Experiment in the Legal Control of Competition in the United Kingdom. 70 Yale Law Journal, p. 879.

51 Collective Discrimination: A Report on Exclusive Dealing, Collective Boycotts, Aggregate Rebates and other Discriminatory Trade Practices 1955 Cmd. 9504.

52 Stevens, op.cit., p. 879.

53 Cmd. 9504, para. 246.

disagreed, taking the view that "the evidence and information put before us does not in our view justify so sweeping a condemnation",[54] and recommending that provision should be made for the registration of agreements, their individual examination and in instances where their operation was found to be contrary to the public interest, their prohibition.

Although the President of the Board of Trade, Peter Thorneycroft, supported by the Permanent Secretary to the Board, Sir Frank Lee[55] and by some industrialists[56] accepted the economic case for the legislation first set out in the White Paper on Full Employment in 1944, he faced opposition from within the Cabinet,[57] his own backbenchers, industry and the Labour Party. The resultant Restrictive Trade Practices Bill which was introduced on 15th February 1956 was therefore a compromise which reflected and attempted to accommodate their conflicting views and interests.[58]

In relation to restrictive trading agreements Part I of the Bill followed the basic approach of the minority of the Commission in providing for the registration of agreements[59] and their referral by a Registrar to a specially constituted body, the Restrictive Practices Court.[60]

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54 ibid., para. 255.

55 Brittan describes Lee as the "driving force" behind the Act of 1956, op.cit., p. 181.

56 J.J. Richardson, The Making of the Restrictive Trade Practices Act 1956. 20 [1967], Parliamentary Affairs, p. 350, The Policy-Making Process (1969) p. 63.

57 The economic case for the legislation was buttressed for some members of the Cabinet, who presumably supported the President, by the prospect which it afforded as a means of maintaining price stability. Worswick in Worswick and Ady, op.cit., p. 38.

58 Richardson, The Policy-Making Process, p. 77.

59 Clauses 5-7.

60 Clauses 2-4.

The Court was to have the power to find agreements contrary to the public interest and accordingly void, unless it could be shown by the parties to the agreement that it satisfied one of the exceptions to the prohibition set out in the Bill[61] and that where it did so satisfy it was not nevertheless a balance contrary to the public interest. Although in providing for the continuation of the pragmatic approach of individual examination and determination by an independent judicial body as opposed to the enactment of a per se prohibition recommended by the majority of the Commission, the Government's proposals was substantially in accordance with the views of industry, significant concessions were made to industry in the remaining parts of the Bill. Part II of the Bill which made provision for the prohibition of the collective enforcement of resale prices, as had been recommended by the Lloyd Jacob Committee, also provided for the legalization of the individual enforcement of resale prices and, more significantly, Part III provided for the reduction in size of "the original troublemaker", the Monopolies Commission and the restriction of its powers to the investigation of monopolies.[62]

The Government's decision to entrust the final decision to a Court rather than to retain responsibility for decisions having received the advice of an advisory body as had been recommended by the Monopolies Commission, stemmed the Lord Chancellor, Viscount Kilmuir explained, from the view, which he shared with the President of the Board of Trade, "that the Commission was unpopular with industry. Ministers even with all the departmental assistance, had not time to give full consideration to its

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61 Clause 16.

62 R.B. Stevens and B.S. Yamey, The Restrictive Practices Court (1965) pp. 15-16 and Hunter, op.cit., p. 86.

reports, the House of Commons would neither be able to grasp the full facts, nor come to a decision unbiased by party prejudice. We wanted, therefore, to give the problem back to the Courts, who had seisin of it in the nineteenth century, but somehow let it slip from their hands."[63] Industry's antipathy towards the Commission, which stemmed from its view of the Commission as combining the role of prosecutor and judge[64] and the feeling of industries which were investigated of being unfairly singled out also had implications for the Board of Trade.[65] It, in particular, was unwilling to accept responsibility for the implementation of the policy on the grounds that the opposition of industry would jeapordise other policies, the implementation of which was dependent upon close cooperation with industry. The removal of responsibility from the political to the judicial spheres was thus seen as a means of maintaining the relationship between industry and government and, at the same time, as a means of enabling the implementation of the policy with the acquiescence of industry. "It is clear that for government departments to be responsible for administering a policy to which the bulk of trade associations were opposed would cause a considerable degree of friction in their day to day relationships ... a tribunal responsible to a Minister ... would have involved the Board of Trade in enforcing an anti-trade association policy. The Board was unwilling to take on this task for fear of disrupting its good relations with sections of industry in other spheres of administration and was therefore more inclined to accept a judicial solution. The handling of the problem by a court of law would mean that the Board would perhaps both avoid the wrath of certain sections of industry and yet achieve its ends."[66]

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63 Lord Kilmuir, Political Adventure (1964) pp. 261-2.

64 This was, in fact, a misrepresentation of the powers of the Commission.

65 Stevens, op.cit., p. 879.

66 Richardson, The Making of the Restrictive Trade Practices Act 1956, p. 356.

Opposition to the decision to establish a court was confined principally to the Labour Party and, initially, to a lesser extent, to the judiciary. The Opposition argued that the question of whether or not a restrictive trading agreement was in the public interest was not susceptible to a judicial solution but was rather a question of policy and therefore fell to be determined by the Government and Parliament rather than the courts. The Government argued in reply that the removal of responsibility for decisions from the political to the judicial spheres would ensure the observance of standards and the maintenance of consistency and impartiality.[67] In fact the Labour Party's opposition was of significance less in the determination of the content of the measure than in the prevention of a revolt by backbench Conservative members who were opposed to the Government's proposals[68] and in the provision of an important bargaining counter to the Government in its negotiations with industry.[69] The approval of the judiciary was obviously crucial to the successful implementation of the proposals. Judicial fears centred on the belief that the determination of the public interest "would entail giving an opinion on economics and politics, and thus involve them in controversy"[70] and every effort was accordingly made to render the issue justiciable; "all the legal talent at the Government's disposal exerted all their ingenuity to find, and insert in the Bill before Parliament, true questions of fact which the Courts could properly decide.[71] The disquiet aroused, however, was such that before a "hostile audience" of judiciary the Lord Chancellor described,"the safeguards in the Bill,

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67 Stevens and Yaney, op.cit., pp. 16-19.

68 Richardson, The Making of the Restrictive Trade Practices Act, 1956, p. 358.

69 Mackintosh, (2nd ed.) op.cit., pp. 596-7.

70 Lord Kilmuir, op.cit., p. 262.

71 ibid.

which I believed would ensure that the judges would be doing their own work and not expressing political views, and how industry had expressed a desire for a part of the High Court and not a special tribunal."[72]

The outstanding area of disagreement between the Government and industry during the parliamentary stages of the Bill remained the onus of proof. Industry objected to the proposal that for an agreement to be found in the public interest the parties to it had to show that it satisfied one of the "gateways" and further that its operation was not detrimental to the public or to persons not party to the agreement. Under pressure the Government amended the Bill, relieving industry of the onus of proving an absence of harm and imposing upon the Court the duty of balancing any advantage which had been shown under the "gateways" provided, against any detriment to the public stemming from its operation; the "tailpiece" provision.[73]

The history of the legislation, Richardson concludes, reveals the policy process as one "of conflict and compromise which in practice makes effective decision and action difficult."[74] Of particular significance to our study is the absence of any clear policy underlying the Act and the seven gateways in section 2(1),[75] the failure to render the issues sufficiently justiciable[76] and the requirement in the tail-piece that the judiciary balance conflicting policy objectives, in effect, "forced the Court not only to make economic predictions and forecasts, but also to evaluate the economic effects of agreements in the light of the interests of different groups and of competing policy

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72 ibid.

73 Section 21(1).

74 Richardson, The Making of the Restrictive Trade Practices Act, 1956, p. 374.

75 Stevens and Yamey, op.cit., p. 48.

76 ibid., p. 142.

objectives."[77] Although the involvement of the judiciary in the implementation of restrictive trade practices legislation was not inherently objectionable, these features of the legislation suggested that one of the Government's main objectives in establishing the Restrictive Practices Court was "to shed the responsibility for having to take the decision whether to implement the recommendations contained in Monopolies Commission reports, with the attendant pressures from the industry concerned."[78]

In that the Act enabled the Government to achieve that objective it was a political success. The advantages of standards, consistency and speed which it was argued would stem from the establishment of a Court largely, however, failed to materialise; by 1964 the Court was proceeding as slowly as the Monopolies and Restrictive Practices Commission had done before the Act. Economically despite the initial whosesale abandonment of agreements the effect of the legislation is generally agreed to have been small. "These revolutionary British Acts have had no major impact either on the economy or on the mentality of the business community."[79] This lack of impact was attributable to the continuation of price leadership, the development of forms of agreement which were not covered by the Act, such as bilateral agreements and information agreements, and secret collusion,[80] and by the end of the period, in implicit recognition of these shortcomings, the Government had proposed the amendment of the legislation.[81]

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77 ibid.

78 ibid., p. 141.

79 J. Stone, Social Dimensions of Law and Justice (1966) p. 460.

80 D. Swann, D.P. O'Brien, W.P.J. Maunder and W.S. Howe, Competition in British Industry, Restrictive Practices Legislation in Theory and Practice (1974) p. 74.

81 Monopolies, Mergers and Restrictive Practices 1964 Cmnd. 2299.

That the Conservative Government's commitment to competition was not unqualified was also shown by the history of attempts to prescribe the restrictive trade practice, resale price maintenance (rpm), during its period of office. The failure of the Labour Government's appeal for the voluntary abandonment of its collective enforcement and for the tempering of recourse to its individual enforcement had revealed that the practice was entrenched and that its abandonment would not be secured by recourse to exhortation alone; a view apparently shared by the Labour Government when it proposed to legislate against both forms in 1951. Although the Board of Trade remained in favour of prohibition of all forms of resale price maintenance the Conservative Government's attitude was less clearly defined and its intervention in 1956 revealed no consistent underlying policy towards the practice. Part II of the Restrictive Trade Practices Act 1956 prohibited the collective agreement of resale price maintenance,[82] but at the same time, as an important quid pro quo, it strengthened its individual enforcement by the provision for the first time of a legal remedy to a supplier against the failure of a retailer to observe maintained prices of which he had been notified.[83] The adequacy of the remedy provided by section 25 against price-cutting as a substitute for the collective enforcement of resale price maintenance, meant that, with the exception of the grocery trade where the practice broke down,[84] the impact of Part II of the Act on the practice was slight.

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82 Section 24.

83 Section 25.

84 Opinions conflict on the contribution of the Restrictive Trade Practices Act 1956 to its breakdown in the grocery trade. The opposing view are summarised in J.F. Pickering, Resale Price Maintenance in Practice (1966) pp. 121-3. Pickering considers that the Act had at least "a catalytic effect" on its abolition, P. 123.

The prohibition of collective resale price maintenance was, however, followed by an "insistent attack" on its individual counterpart,[85] which was reinforced by the association of the beneficial consequences of its breakdown in the grocery trade with the Act and by the condemnation of the practice by a succession of influential bodies. The Cohen Committee, in their second report in 1958, concluded that Section 25 had strengthened resale price maintenance and that consideration ought to be given to its repeal. In 1962 the Moloney Committee on Consumer Protection reported that, "a few of our number considered that the existing law in favour of r.p.m. was prima facie inimical to the interests of the consumer"[86] and in the following year the Monopolies Commission, in its report on motor accessories and wallpaper, and the Consumer Council both condemned the practice, the latter recommending that it should be prohibited.

However, although the general climate of opinion after 1960 and in particular the emphasis placed on economic growth and consumer protection which was contributed to by, and reflected in the reports of those bodies supported the Board of Trade's policy, the widespread support which existed for the practice among suppliers and retailers and within the Conservative Party made its implementation unlikely. A refusal by the President of the Board of Trade, Reginald Maudling, during the winter of 1959, to put a departmental proposal for the prohibition of resale price maintenance before the Cabinet because of the likelihood of its rejection[87] was followed, as a result of further pressure for its prohibition, by the announcement of the establishment of a departmental inquiry into the practice. The inquiry was widely

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85 ibid,, p. 216.

86 Final Report of the Committee on Consumer Protection, 1962 Cmnd. 1781, para. 7.

87 J. Bruce-Gardyne, The Power Game, (1976) p. 86.

believed to have recommended its prohibition with only limited provision for the exemption of certain cases,[88] but no action appears to have been taken on its report until its presentation to the Cabinet by Reginald Maudling's successor as President of the Board of Trade, Frederick Errol, in January 1962 where it was decisively rejected on the grounds of the political opposition which it would engender.[89]

With the resignation of Harold Macmillan in October 1963 and his replacement Sir Alec Douglas-Home, Edward Heath assumed the office of President of the Board of Trade with the increased responsibilities signified by the change of his ministerial designation to Secretary of State for Industry, Trade and Regional Development. Apart from the increased political status which he brought to the office and the Prime Ministerial support upon which he could rely, two factors were crucial to the subsequent prohibition of individual resale price maintenance by the Resale Prices Act 1964. The first was Edward Heath's conviction that the retrieval of the political initiative from the Opposition was dependent upon convincing the electorate that the Government's capacity for innovations in policy was not exhausted[90] and the second factor was the result of the ballot for Private Members' Bills in which John Stonehouse and John Osborne secured first and second places. The former intended to introduce a Bill to secure the abolition of individual resale price maintenance and the latter a Bill on the related controversy surrounding trading stamps; thereby compelling the Government, as had the Report on Collective Discrimination in 1955, to adopt a position on the issues and providing Edward Heath with an opportunity to seize the initiative. On 15th January 1964 he announced the

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88 Pickering, op.cit., p. 217.

89 J. Bruce-Gardyne, op.cit., p. 89. The Financial Times suggests that the Report was taken to the Cabinet "a little airily" by Maudling. 16 Jan. 1964.

90 Bruce-Gardyne, op.cit., p. 92.

Government's intention of seeking the prohibition of individual resale price maintenance and on 25th February the Resale Prices Bill received its first reading.

Although the genesis of the legislation illustrates the importance of short-term political considerations in the emergence of economic law it was equally atypical of that process in that it was marked by the complete absence of consultation prior to its introduction.[91] The controversy which this lack of consultation aroused reveals the strength of the expectation that governments will not intervene other than in the basis of cooperation and agreement and meant in relation to the Resale Prices Bill that the conflict which existed between organised interests, including their representatives within the Conservative Party, and the Government was fought out during the parliamentary stages of the legislation. The seriousness of that conflict was emphasised by the abstention of the Opposition on the Second Reading debate when twenty Conservative backbenchers voted against the Government and a greater number abstained; the largest revolt within the Party since the fall of the Conservative Government in 1940.

The approach adopted in the Resale Prices Act 1964 was similar to that embodied in the Restrictive Trade Practices Act 1956. The Act prohibited actions to prescribe or enforce a fixed resale price other than a maximum or recommended price,[92] including the withholding of supplies of a product from a dealer or their supply on discriminatory or significantly less favourable terms than to other dealers carrying on business in similar circumstances.[93] Provision was made for the

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91 Walkland, op.cit., p. 32.

92 section 1.

93 section 2. Exemption from the prohibition of withholding supplies was made in the case of loss-leading. section 3.

registration by suppliers of applications for the exemption of classes of goods from the prohibition in section 1 and for their consideration by the Restrictive Practices Court.[94] Where the Court was satisfied that in the absence of resale price maintenance one or more of the five detriments specified in section 5(2) would occur and that that consequence was on balance disadvantageous to the public as consumers or users of the goods it could make an order exempting a class of goods from the prohibition in section 1. In an important concession to opponents of the Bill which constituted a significant change of emphasis and which served as an incentive to the registration of applications for exemption, the Government amended the Bill to except from the prohibition in section 1 the enforcement of resale price maintenance on classes of goods in respect of which applications for exemption had been made but which remained undetermined.

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94 section 5.

Section B.

Location of Industry Policy Between 1939 and 1964.

14. THE DISTRIBUTION OF INDUSTRY ACT 1945

Introduction

During the war unemployment in the areas was considerably alleviated and important developments took place in the instruments of regional policy as a result of the necessity of completely mobilising available resources. These developments, however, derived their impetus from the exigencies of war production which took precedence over the questions of the post-war prospects of the areas and the shape of government policy towards them, over which the conflicts which had marked their discussion before the war might be expected to re-emerge and it was only with the prospect of victory that the problems of reconstruction, including the areas, were given serious consideration. The climate within which that consideration took place in relation to the areas had, however, been materially altered by the changes in political attitudes which had taken place,[1] which took as their basis the Keynesian prospects of full employment and the principles of land-use planning outlined in the Barlow Report. The assumptions which had been uncritically applied in the development of policy before the war were increasingly the subject of challenge.

(i) The mobilisation of resources

The harnessing of the areas' resources was not systematically and purposively attempted until after the fall of the Chamberlain Government in May 1940, but thereafter it became the sole objective of policy towards the areas until 1943, when serious consideration was first given to post-war policy towards them. "The turning of the tide, the change from feeding the fat and starving the lean," a subsequent

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1 Supra.

President of the Board of Trade later said, "began in 1942. It began for war reasons."[2] The areas' resources were exploited by a variety of devices. Their resources included; excess capacity in the basic industries which was utilised through government contracts; remoteness, which while paradoxically one of the causes of their inter-war depression was an important feature of their war-time attraction in that strategically they were relatively secure from air attack[3] and reserves of labour which were mobilised both through transference and the location of factories and contracts in the areas.[4] In terms of the development of the instruments of regional policy during this period the most important reserve of the areas, however, was of factory and storage space in the mobilisation of which "a rather crude national policy was evolved for quite a different purpose [from the relief of unemployment]: the rational allocation of scarce factory space for war production."[5]

During the initial period of the war the use of premises for production and storage was uncontrolled and government departments and individual manufacturers were responsible for the satisfaction of their own requirements. With the expanding requirements of production and the damage caused by air attacks the result was an "undignified scramble" for space.[6] In November 1940 an inter-departmental committee appointed by the Lord President's Committee to examine the problem recommended the appointment of a Controller-General of Factory and

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2 Hansard, 5th Sers. H.C. Debs. vol. 400. col. 1592. 7 June 1944.

3 W. Hornby, Factories and Plant, History of the Second World War. War Production Series, (1958), chapter IX.

4 Alan Bullock, The Life and Times of Ernest Bevin. vol. II Minister of Labour 1940-5. (1967) p. 24.

5 Grove, op.cit., p. 458. Hancock and Gowing pp. 320-1.

6 ibid.

Storage Space, responsible to the President of the Board of Trade for the allocation of premises.[7] The Committee's proposals were accepted by the Cabinet on 23rd December and after some delay the control of Factory and Storage Premises began operations on 15th May 1941.[8]

The exercise of co-ordinated control over the utilisation of factory and storage space by government departments was a matter of internal government administration and did not by itself require legislative authorisation. The objective of the system of control was, however, to control the utilisation of factory and storage space no matter by whom it was used and in 1941 a Defence Regulation was made empowering the Board of Trade to issue an order controlling the movement of firms.[9] The Location of Industry (Restriction) Order which was signed in July 1941[10] prohibited the use for, or a change of use from, production or storage, of any premises having a floor area of 3,000 square feet or more without a licence from the Board of Trade. In October 1942 the exception of premises having a floor area of less than 3,000 square feet was removed and the provisions of the Order extended to include premises not previously used for production or storage.[11] Significantly therefore, the Orders, which were the first instruments devised for the control of the location of industry, although negative in their operation in that they could not compel the location of a firm in premises other than those in which it was located, were devised not for solving the problem of the pre-war

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7 Report of the Lord President's Committee on the Control of Factory and Storage space. 20 Dec. 1940. W.P. (G.)(40) 326 - Cab. 67/8.

8 309. (40) G. - Cab. 65/10. and E.L. Hargreaves and M.M. Gowing, Civil Industry and Trade. History of the Second World War. (1952), pp. 240-1.

9 Def. Reg. 55A. S.R. & O. 1941. No. 653.

10 S.R. & O. 1941. No. 1100.

11 Location of Industry (Restriction) Order S.R. & O. 1942. No. 2072.

depressed areas but rather for securing the rational utilisation of existing factory and storage space. In its implementation, however, the Location of Industry (Restriction) Order 1942 assumed a scope which was considerably wider and of doubtful legality in that it was used by the Factory and Storage Premises Control on behalf of the Location of Industry Committee of the Ministry of Production, which had been set up in 1942, as a means of controlling the location of industry in terms of the availability of labour, the shortage of which was by then crucial, and not of premises.[12] The Ministry of Production, a Board of Trade official later wrote, "discovered in this Order a convenient existing means of carrying out the much closer control of production ..." the practical application of which became so wide "that it became impossible to draw the line between cases within it and cases outside."[13]

The second development which stemmed from the complete mobilisation of resources was the exercise of control over the creation of new space, building control, which was coordinated with the control exerciseable over the utilisation of existing space. Defence Regulation 56A[14] prohibited the carrying out of building operations costing over £500 without the authority of a Government department or the Ministry of Works.[15] Securing the most effective use of existing premises was of primary importance in reducing the demand for new premises and in 1941 the two systems of control were co-ordinated through the "nil certificate procedure", whereby an application for a building licence

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12 Hargreaves and Gowing, op.cit., p. 247.

13 A Preliminary Consideration of Some Requisites of Post-War Control of Industrial Location in the Light of the Location of Industry (Restriction) Order 1942. BT 106/22.

14 S.R. & O. (1940). No. 1678.

15 The limit was reduced to £100 in April 1941 (S.R. & O. (1941). No. 437) and a new Regulation came into force on 1st January 1942. S.R. &O. (1941) No. 1596.

could only be considered where the Controller-General certified that no suitable existing premises could be made available.[16]

(ii) The Barlow Report

The publication in January 1940 of the Report of the Royal Commission on the Distribution of the Industrial Population, the Barlow Report,[17] was overshadowed by the more immediate and pressing considerations induced by the outbreak of the war. "At the time [it] appeared to have little relevance in the circumstances of war."[18] Nevertheless, although its impact was accordingly initially limited it was to exercise a seminal influence on the subsequent development of policy in that it stimulated consideration of the problem as one of land-use; a theme which was to recur in the subsequent Scott and Uthwatt Reports, rather than as simply one of unemployment.[19] Moreover it depicted the problem as the corollary of the development of the South-East and made, for the first time, an economic case for a regional policy in terms of the maximisation of productive potential.[20] Its implication was that the location of industry was not the product of natural forces, the results of which governments were compelled to accept, but something which governments should actively seek to influence.

The Commission recommended that the government should assume responsibility for the pattern of land use throught the country and that a Central Authority should be established and charged with the redevelopment of congested urban areas, the decentralisation of industry

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16 Hargreaves and Gowing, op.cit., p. 248.

17 1940. Cmd. 6153.

18 Addison, op.cit., p. 175.

19 Land Utilisation in Rural Areas 1942 . Cmd. 6378. Compensation and Betterment. 1942 Cmd. 6291.

20 G. McCrone, Regional Policy in Britain. (1969) p. 104.

and population from those areas and the attainment of a balanced and diversified distribution of industrial development throughout the country. A majority of the Commission recommended that these objectives should be pursued principally by means of the development of garden cities; satellite towns, trading estates and existing small towns and regional centres and the inspection and co-ordination of local authority planning schemes. In addition, it was recommended that the proposed authority should assume responsibility for the conduct of research on the location of industry and the use of natural resources, the anticipation of depression in areas and the promotion of remedial measures.[21] The authority's function was therefore conceived of as being largely advisory; its regulatory powers being restricted to the proscription of the establishment of additional industrial undertakings within London and the Home Counties.[22]

These proposals did not command the support of the whole Commission. Three members of the majority were of the opinion that the authority's powers would be insufficient and proposed that, once established, it should assume executive responsibility for the attainment of a balanced and diversified distribution of industry and that its powers should include both negative powers of restriction, which should extend to the whole country, and positive powers to assist the location of industry similar to those exercised by the Commissioners for the Special Areas, the functions of whom should be transferred to the proposed authority.[23] A minority of the Commission of whom the most prominent

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21 Cmd. 6153, op.cit., para. 428.

22 ibid., paras. 429-33.

23 ibid., paras. 208-17.

was Patrick Abercrombie, Professor of Town Planning at University College, London criticised the Report of the Majority on the grounds that the urgency of the problem was made insufficiently clear and recommended that a government department rather than a Board should assume responsibility for the distribution of industry. With regard to the department's powers their proposals were similar to those set out in the note of reservation to the report of the majority, the major difference being that the minority laid greater emphasis on planning in recommending that the department's responsibilities should extend to the exercise of the functions of other departments such as town planning and that the powers conferred should be exercised in accordance with an "outline of Development."[24]

(iii) Consideration of Post-War Policy Between 1940 and 1942

As in the case of its impact generally at the time of its publication, the impact of the Barlow Report within government was slight. Hugh Dalton, the chief ministerial figure in the enactment of the Distribution of Industry Act, 1945 wrote that "we were then nearing the worst moment of the war. So the Report made little impact outside a narrow circle."[25] Although a Reconstruction Problems Committee of the War Cabinet was established in January 1941 to study post-war problems and reconstruction, the appointment of Arthur Greenwood, Minister without Porfolio, as its chairman confirmed the low priority attached within the Government to reconstruction.[26]

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24 ibid., paras. 218-33. Chester, op.cit., pp. 164-5.

25 Hugh Dalton, The Fateful Years: Memoirs 1931-45. p. 434.

26 Addison, op.cit., p. 167.

Individual initiatives such as the Nuffield College, Oxford, Social Reconstruction Survey, begun in 1941 with the support of Greenwood and the Minister of Works and Building, Lord Reith[27] and a proposal by the chairman of the Royal Commission, Sir Montague Barlow in August 1940 that he should carry out preliminary research within one or two areas in order to identify future depressed areas and the best means of a reasonable balance of industrial development,[28] were made which related to the Report, but action on it was restricted to its informal consideration and referral to the Reconstruction Problems Committee.

At a meeting on 30th January 1941 of the War Cabinet sub-committee on the Location of Industry Ministers discussed the Barlow Report and agreed to prepare memoranda for subsequent discussion.[29] In a general discussion the conclusions of which were so vague as to confirm the air of unreality which pervaded the discussion it was agreed that any policy should not seek to interfere with the existing location of industry, "future industrial location should be controlled with a single eye to broad national interests" and that a sub-committee of the Reconstruction Problems Committee on the Location of Industry should be established.[30] The Blitz had, however, raised in more pressing form the general questions of planning and reconstruction and on 13th February the War Cabinet had approved a report of the Lord President's Committee on the Reconstruction of Town and Country and had remitted

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27 The results of the Survey in relation to the depressed areas were published in 1945. M.P. Fogarty, Prospects of the Industrial Areas of Great Britain.

28 Memorandum by Sir Montague Barlow, 24 Aug. 1940. Reconstruction Secretariat: Files - Cab. 117/ 137.

29 Cab. 87/91.

30 ibid., 17 Mar. 1941. At the first meeting of the Reconstruction Problems Committee on 27th February 1941, Greenwood had "circulated a grandiose memorandum which classified every possible goal at home," including the location of industry, as requiring action. Addison, op.cit., p. 167.

the question to the Minister of Works and Building, assisted by an advisory committee.[31] This decision accorded with Reith's desire to assume responsibility for the whole of post-war reconstruction[32] but the confusing overlap of responsibilities to which it gave rise led to bickering between the Ministers which was not resolved until the assumption by the renamed Ministry of Works and Planning of the town and country planning powers of the Ministry of Health in July 1942.[33]

The sub-committee of the Reconstruction Problems Committee met only once, on 1st July 1941, to consider a report from the Ministry of Works Advisory Committee which had been asked to advise on "the forms, powers and responsibilities of the authority or authorities necessary to exercise control over the location of industry." The Committee did not discuss the report but agreed to remit the question of the location of industry to the Committee on the Economic Aspects of Reconstruction and, more significantly, it stated its conclusion that in view of the changes which had taken place in the areas the Barlow Report no longer formed an appropriate basis for policy.[34] On 11th February 1942 Lord Reith announced the establishment of a re-designated Ministry of Works and Planning. This tentative step towards the establishment of the Central Authority which had been recommended in the Barlow Report and which subsequently had been pursued by Lord Reith left open, however, as the Times pointed out, the question of the substance of policy towards the control of land use generally and the location of industry in particular.[35] The dismissal of Lord Reith on 21st February 1942

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31 W.P. (9)(41) 13 - Cab. 56/9. 17(41) 5 - Cab. 65/17.

32 Addison, op.cit., pp. 175-7.

33 Chester, op.cit., p. 167.

34 Cab. 117/137.

35 The Times, 10 Feb. 1941.

gave rise to some disquiet about the seriousness with which the planning powers would be exercised which was not dispelled by his successor, Lord Portal's policy of "masterly procrastination" towards their exercise and in February 1943 they were transferred to the newly established Ministry of Town and Country Planning which assumed responsibility for physical planning, new towns and slum clearance.[36]

Progress towards the development of a regional policy other than as an ancillary to the mobilisation of the resources of the areas was therefore limited during this period. The claim that the establishment of the Ministry of Town and Country Planning met the Barlow Commission's recommendation for the establishment of a Central Authority[37] was dependent for its validity upon the assumption by the Ministry of responsibility for policy towards the areas as an aspect of the wider question of land use, which it had yet to do. Moreover the desultory nature of the consideration of locational policy reflected the lack of importance which the Coalition Government attached to reconstruction and the dismissal by the Reconstruction Problems Committee's sub-committee of the Barlow Report suggested that official attitudes towards the problem of the depressed areas remained unchanged.

(iv) Reconstruction

It was, however, evident by 1942 that reconstruction was gaining a greater and more pressing significance. "There is," the Times commented in May, "discernible everywhere today a tide of feeling which knowls no party and no boundaries but moves towards new conceptions of security and social justice".[38] A memorandum from the Ministry of

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36 Addison, op.cit., p. 177. Chester, op.cit., pp. 167-8.

37 Dalton, op.cit., p. 435.

38 The Times, 29 May 1942.

Works in August 1941 while supporting the conclusion that official attitudes towards the problem of the areas remained unchanged, suggests that the growing political unacceptability of this view was already recognized. "The selection of places and of types of industry for which Exchequer assistance should be available on a nationwide basis would present problems which might well be insurmountable and the general subsidisation of industry might consequently be the result. Even if a more or less satisfactory criterion is found it is extremely difficult to resist pressure for concessions to particular localities or industrial undertakings, and it may easily happen that the cure is worse than the disease It is, however, appreciated that post-war reconstruction is almost certain to require abandonment of many of the old shibboleths and that the incursion of the government may be necessary into many new fields."[39] In a similar vein Harold Laski had written earlier that, "the way to victory lies in producing the conviction now among the masses that there are to be no more depressed areas, no more vast armies of unemployed, no more slums, no vast denial of genuine equality of educational opportunity."[40]

The impact of the tide of feeling in favour of reconstruction on government was reflected in the establishment of a Reconstruction Priorities Committee, which replaced the Reconstruction Problems Committee, under the Chairmanship of the Lord President of the Council, Sir John Anderson and composed of leading Labour and Conservative politicians, to consider the completed Beveridge Report on Social Insurance and Allied Services. Its establishment meant that "for the

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39 BT. 104/105.

40 Quoted in Addison, op.cit., p. 184.

first time, reconstruction was being treated as a matter of first rate importance in Whitehall, worthy of the energies of some of the most powerful politicians and civil servants."[41]

The greater concern shown with reconstruction revealed, however, the problems inherent in the Coalition and the obstacles which reform faced. The consensus upon which the Coalition was based did not extend to the content of post-war policies on which traditional political conflicts, which in the case of regional policy had been continuously in evidence, might be expected to re-emerge. Actual measures of reform enacted during the war tended therefore to be the product of the exigencies of the war effort, as had been the introduction of the Factory and Storage Control and building licencing, on which the parties were in agreement, and to follow rather than lead changes in opinion. "That the government should receive the opportunity of the war to promote changes which it might consider desireable rather than necessary was an idea which remained unaccepted;[42] precisely because of the lack of agreement on the criteria by which desireability might be judged. This unwillingness to consider changes other than "necessary" ones was reflected in the approach of the Treasury to post-war policies which decreed that "no particular commitments should be entered into until it was possible to forecast the financial burden of post-war policy as a whole,"[43] and was equally evident in the attitudes of individual

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41 ibid., p. 221.

42 Milward, op.cit., p. 41.

43 Addison, op.cit., p. 233.

Ministers. Dalton records that "though many Ministers' minds moved towards the study of post-war problems, they moved less steadily towards agreed solutions. Thus some tried to avoid "party strife" by postponing decisions on contentious issues."[44] The Prime Minister in particular "became progressively allergic to post-war policy."[45] Therefore although in general reconstruction was supported by a groundswell of popular opinion its attainment faced formidable political obstacles. The cause of regional policy, in particular, although ably promoted by Hugh Dalton, supported by the Minister of Labour, Ernest Bevin, was strongly opposed by Conservatives both within and outside the Government.

During 1943 the development of a policy towards the former depressed areas had two main stands. Firstly, it was promoted by the President of the Board of Trade, Hugh Dalton, who had been appointed in February 1942, and whose efforts were mainly directed to the Reconstruction Priorities Committee[46] and were underpinned by a growing political interest in the control of land-use. Secondly, it formed an important aspect of discussion of a policy of full employment. The economic nexus between a policy of full employment and regional policy was made explicit by G.D.H. Cole. "If (in the pursuance of full employment) the Government were to limit itself to measures designed to maintain the global demand for labour at a high level, without attempting to influence either the character or the location of the employment provided, industries and areas would eventually gain to very different extents, and in particular acute

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44 Dalton, op.cit., p. 407.

45 ibid., p. 408.

46 PR.(43) 9 - Cab. 87/12 27 May 1943. P.R. (43) 50. - Cab. 17/13 2 Sept. 1948.

labour shortages, or shortages of the right kinds of labour, would arise in some areas while unemployment on a large scale continued to exist in others. Balance could be achieved in such a situation only by labour migrations of a magnitude which would involve acute social disturbances, even if they could be brought about at all."[47] Nevertheless although an economic case for a policy could be made out in terms of the use of resources, appreciation of that case seldom permeated the discussions of policy.

The issue of full employment had been elevated to one of primary importance by the Beveridge Report and it, together with the question of Keynesian techniques of demand management, was remitted to the Economic Section of the War Cabinet. The announcement by Sir William Beveridge in March of his own personal inquiry into the maintenance of employment made clear the desireability of a more public initiative by the Government[48] and in July the Reconstruction Priorities Committee referred the Economic Section of the War Cabinet's paper to a Steering Committee, the Committee on Post-War Employment chaired by the head of the Treasury, Sir Richard Hopkins. At its first meeting on 30th July the Committee referred the question of the location of industry to the President of the Board of Trade, the Minister of Labour and the Minister of Town and Country Planning.[49]

Their report was presented to the Committee in October.[50] Its assumption that the probable long-term unemployment of the areas would be 500,000 or twenty to twenty five per cent of their insured population

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47 Introduction to M.P. Fogarty, op.cit., p. XXIX.

48 Winch, op.cit., p. 282. Addison, op.cit., p. 243.

49 E.C. (43.) - Cab. 87/63. 30 Jul. 1943.

50 E.C. (43) 5. - Cab. 87/63. 18 Oct. 1943.

dominated its proposals and illustrated the extent to which the problem was conceptualised in terms of unemployment and was unaltered by Keynesian ideas of demand management or the emphasis on the planning of land use in the Barlow, Scott and Uthwatt Reports. The policies prescribed, which included; the maintenance and expansion of employment afforded by factories; the establishment of new businesses and the transference of labour to areas where there was an unsatisfied demand for it, assumed that the problem of the areas was cyclical rather than structural, thus threatening to increase their dependence on the basic industries, and were fundamentally indistinguishable from those pursued by the Commissioner for the Special Areas after 1936. The report contrasted sharply with a memorandum prepared by the Economic Section of the War Cabinet, which was dominated by Keynesian economists, for the Committee and which, on the assumption that policies for the maintenance of employment would be pursued, argued that the problem was unlikely to be as serious and that, therefore, a ban on the location of industry in the Greater London and Greater Birmingham areas, the question of which the Ministers had recommended for consideration, was undesireable in that it would restrict the efficient allocation of resources.[51] The two reports therefore represented contrasting approaches to the question of policy; their contribution to the development of which being dependent upon the validity of the particular assumptions upon which they were based. Both, however, left open the question of the detailed content of an effective location policy.

Two further factors which emerged at this time were of significance in the subsequent development of policy and were invoked by the President

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51 E.C.(43) 13. - Cab. 87/63. 20 Oct. 1943.

of the Board of Trade in support of his proposals. The first was an increasing demand on the part of industrialists who expected the policy to involve at least the prevention of uncontrolled expansion in London and Birmingham[52] for an indication of its likely shape so that locational choices could be exercised in accordance with it, and the second was the re-emergence of specific political concern with the future of the areas which largely relied for its basis on the Barlow Report. In reply to a parliamentary question on the 19th October asking whether he was "aware of the apprehension felt as to the possibility of unemployment when peace returns to those once depressed areas where no new industries have been established," the President of the Board of Trade stated that he was "fully alive" to the importance of the question and that he hoped to make an announcement soon.[53] Action was, however, restricted to the institution of an inquiry into the prospects of the areas, an initiative which drew criticism from the Times which contrasted the "special areas" approach of those who "hope by helping them to maintain or even increase their war time prosperity, to draw industries away from the Midlands and South-East and so make possible the replanning of the congested areas", with that of those "who approach the problem from the more comprehensive point of view [who] would replan the congested areas first and so divert other industries to the "special areas". The first approach means that inducements will be offered to manufacturers to settle in areas where the danger of unemployment is forseen, the second means a national planning policy." The institution of inquiries "was indicative

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52 The Times, 5 Jul. 1943.

53 Hansard. 5th Sers. H.C. Debs. vol. 392. col. 1194.

of the adoption of the first approach" and "it would seem impossible, on any impartial view, to prepare a constructive solution of the problem of industrial location, of balancing the sources of employment region by region, if a considerable measure of central planning is not in view."[54] In similar terms on 6th November the Economist stated its view that "the war has not solved the problem of the Special Areas, it has merely postponed it, ... a decision in the Barlow Report, which after all originated from the Special Areas problem, and a sign of bold determination to plan industrial location are long overdue."[55]

These views found support within Parliament. In a debate in the House of Lords on Planning: Powers and Prices on 10th November, Lord Balfour of Burleigh argued that "the approach to national planning of industry by way of Special Areas is ... wrong. The only hope is to regard the development of our whole industry from the national point of view, and to endeavour to promote the greatest efficiency from the top and not in relation to the Special Areas."[56] Viscount Ridley, former chairman of the North-East Development Board, while not convinced that the two approaches were readily distinguishable cogently put the case for the development of a regional policy. "It is unfortunately true that not only is there great opportunity for replanning, due to the damage which has been done by bombs in our cities, but there is also a great necessity for the replanning of industry, due to the development which has happened during the war for meeting war needs ... It is unfortunately true that, in meeting this necessity, no real consideration has been given to the

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54 The Times, 23 Oct., 1943.

55 The Economist, 6 Nov. 1943.

56 Hansard. 5th Sers. H.L. Debs. vol. 129. col. 633.

local problems involved, or understanding shown of the necessity to see that industry in various parts of the country is properly adjusted. We can accept that as a fact and as having been necessary, but we must also, I think, accept the necessity that the Government must see that such conditions are put right afterwards."[57] Lord Snell in reply for the Government stated that the conclusions of the Barlow Report could not be given an unqualified acceptance. "The conclusions of the Barlow Commission were based upon the pre-war conditions and they have necessarily been greatly modified by the changes due to the war, but steps have been taken to study afresh the situation."[58] It is, however, impossible to contrast the approach of critics outside government with that of either the Ministers or the Economic Section of the War Cabinet in that although their views were based on the Barlow Report, it is not clear that what constituted "the proper distribution of industry" was not measured in terms of unemployment or the efficient allocation of resources, the criteria adopted by the Ministers and the Economic Section respectively. The adoption of planning was necessitated, and consequently its practice was rendered politically acceptable, by the war, but its advocacy did not by itself constitute a solution to the problem of the areas.

(v) The White Paper on Employment Policy

The diverse threads of interest in the development of a policy; the governmental, the parliamentary and the media were brought together in the debate on the Address. The King's Speech merely referred to

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57 ibid., cols 638-9.

58 ibid., col. 680.

"examination of the reports which have been made recommending the assumption of further powers to control and direct the use of the land of Great Britain," a proposal which drew immediate criticism from John Lawson, M.P. for Chester-le-Street. "But I do not find any sign of a tendency towards consideration of the Barlow Report or even the slightest reference to it. I have seen references in the Press to the effect that the Barlow Report is out of date. I have seen also statements which give the impression that the Government do not intend to take the slightest note of that Report. I must say that I have been amazed at that attitude."[59] Commenting on the speech the Times reiterated its earlier view of the urgency of the problem but was cautious in its assessment of the significance of the omission,[60] while the Economist considered it "regrettable" and emphasised the importance of a statement by the Government on the Report. "The term "special areas" recalls a dismal and discreditable chapter in British history. The War has certainly brought full employment to the heavy industries of the Special Areas. But it has also emphasised their dependence on those industries."[61]

The Reconstruction Priorities Committee had been reconstituted as the Reconstruction Committee in October and on 11th November Lord Woolton had reluctantly accepted the new office of Minister of Reconstruction. The Committee met on 4th December to consider replies to a possible amendment to the Address regretting the failure to put forward a national policy for a better location of industry designed to prevent a recurrence of the inter-war problem of localised unemployment, but the

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59 Hansard. 5th Sers. H.C. Debs. vol. 395. col. 95. 25 Nov. 43.

60 The Times, 30 Nov. 1943.

61 The Economist, 4 Dec. 1943.

inconclusive nature of the discussion illustrated the lack of agreement on future policy; the Minister of Reconstruction, in particular, emerged as opposed to the prohibition of the location of new industries in certain areas.[62] Replying to the amendment on 8th December, the President of the Board of Trade, Hugh Dalton, promised that for the present building permits would be used to give high priority to industrial building in areas where there was a serious danger of unemployment and that for the future, the Minister of Reconstruction was taking "a keen interest" in the problem.[63] As an indication of the Government's active commitment to solving the problem he announced that it had been decided that "we would ban the term "distressed areas" and wash it from our vocabulary and that instead we would speak of "development areas". That is what I and my officials now call them. A "distressed area" suggests an area, the distress of which the Government are prepared, if not passively to contemplate, at least only mildly to palliate. A "development area" means an area whose resources the Government are determined actively to develop and diversify. That is a change of emphasis which I thought I ought to make."[64] Although, apart from this statement of intention, Dalton had refused to give a definite answer to the question of whether the Government accepted the principle of control over the location of industry, the amendment was withdrawn, its seconder stating that the statement " will help very largely to soothe our anxieties and those of our constituents."[65]

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62 Reconstruction Committee Secretariat. - Cab. 124/134. 3 Dec. 1943.

63 Hansard. 5th Sers. H.C. Debs. vol. 395. cols. 1068-9. 8 Dec. 1943.

64 ibid., col. 1073, and see Dalton, op.cit., p. 438.

65 ibid., col. 1075.

The President of the Board of Trade's failure to answer the question of principle was a result both of opposition within the Government to the determination of post-war commitments, including location policy, before the end of the war and the fact that the allied question of full employment remained unsettled. The frustration which this had caused Dalton and his consequent tactics are revealed in his notes of the meeting on 28th January of the Reconstruction Committee, to which the completed report of the Committee on Post-War Employment had been sent.[66] "I had been prepared to make a row and to tell them, at the end, that the delay and indecision over this had become so intolerable that I had now no recourse left except to send a Minute direct to the Prime Minister."[67] He argued that pressure from industrialists; "hundreds of industrialists had approached me and my officials seeking guidance", and the political consequences of further delay, "we had been "caught short" on the debate on the Address when amendments were moved on location. I had got away with it pretty well, and Parliament and the press had been favourable. But we could not go on any longer without grave embarrassment, without a policy," necessitated a policy and it was agreed that he should inform industrialists that the Government would like them in the national interest to consider locating factories in South Wales, central Scotland, the North-East and West Cumberland, areas which, geographically, were considerably wider in scope that the previous Special Areas. This result represented, he wrote, "a very satisfactory afternoon." His tactics clearly were, therefore, to avoid discussion of the fundamental principles of policy as impolitic but

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66 Addison, op.cit., p. 243.

67 Hugh Dalton's Diary, 28 Jan. 1944.

to use the argument of necessity to secure its incremental development. "By getting this authority to write letters, I have made sure that these four areas will soon have to be publicly announced, for some of the letters will be shown or reported to the press. Some of my colleagues, frightened of public announcements, seem not to forsee this obvious next move on the chessboard. But that's their funeral. I shall be very glad for the areas to be announced, and not at all sorry to be pressed to make certain additions to them."[68]

Subsequent discussions followed the same pattern. At a meeting of the Sub-committee of the Reconstruction Committee on the location of industry Dalton dismissed the latest draft of Chapter III of the White Paper on the Balanced Distribution of Industry and Labour as having been "concocted in Woolton's office" and as "the worst draft we have had yet,"[69] but at a meeting of the Lord President's Committee three days later it was agreed to build ten "Advance Factories". Initially, these were thought of as "a reserve against mishaps, due to enemy action in London" but they soon formed "one of our most effective magnets for industrialists."[70]

Agreement on Chapter III of the White Paper was eventually reached on 1st March. It was, Dalton wrote, "a distinctly good meeting," the result of which "is very satisfactory ... The Board of Trade are to have powers to require all industrialists to come and talk to them about their plans, and to prohibit developments in "congested areas". This seems almost too good to be true."[71] The chapter marked an important

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68 ibid.

69 ibid., 22 Feb. 1944.

70 ibid., 25 Feb. 1944 and Dalton, op.cit., p. 440.

71 Diary, op.cit., 1 Mar. 1944, original emphasis and Dalton, op.cit., p. 441.

stage in the development of the legislation in that it formed the basis for the subsequent Bill. "It became," Dalton wrote, "my official Charter, on which I relied in much subsequent argument."[72] It proposed that the problem of local unemployment should be tackled through; the strengthening of the basic industries; the diversification of the existing industrial composition of the areas by means of the prohibition of the establishment of new factories in districts in which serious disadvantage would result and the steering of new industrial development to the areas; and the removal of obstacles to the geographical and industrial mobility of labour.[73]

Two features of the White Paper's assessment of the problem and the appropriate policy were of particular significance. Firstly it did not share the Barlow Commission's concern with the pattern of land use, nor did it explicitly recognize a location policy as an integral feature of a long-term policy of full employment. Rather it "conceived of location policy as being essentially concerned with unemployment," an analysis which did not differ markedly from that of the Ministers' Report in 1942.[74] Secondly the emphasis, which marked the analysis of the problem, on cyclical rather than structural explanations carried with it the danger of the perpetuation of the source of the areas' difficulties; an excessive reliance on the basic industries for the provision of employment.

The War Cabinet considered and approved the White Paper on 19th May and it was published on 26th May. From the Keynesian point of view it was a disappointment, reflecting the inevitable compromises of which it was a product.[75] Its "timid ambivalence"[76] was, however, overshadowed by the

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72 Dalton, op.cit., p. 443.

73 Employment Policy, May 1944, Cmd. 6527, para. 25.

74 Loasby, op.cit., p. 36. See e.g. paras. 20 and 23.

75 Addison, op.cit., p. 246, Winch, op.cit., pp. 279-83.

76 Winch, op.cit., p. 284.

long-term political significance of the acceptance by the Government "as one of their primary aims and responsibilities the maintenance of a high and stable level of employment after the war."[77] Reactions to the White Paper varied. Sir Herbert Williams greeted it as "unutterable nonsense,"[78] while the Economist described it as "revolutionary" and as "a landmark in economic history."[79] Popular opinion, however, remained largely unmoved; it was, Addison states, "apparently unimpressed."[80] Chapter III was described by the Economist as "the most satisfactory" in that several important principles had been accepted for the first time. "The first is that the Government has any responsibility in the matter at all. This is itself quite a victory. The second reversal of policy is hardly less important. It is now accepted as a general principle, that it is better, wherever possible, to take the labour to the work rather than the labourer to the work."[81] As, however, with the White Paper generally, of which the Times had stated that the most characteristic reaction, "has been a widely expressed doubt whether the Government while sincerely willing the end are prepared also to will the means with the conviction and determination that alone can make them effective,"[82] it remained to be seen whether "the policy will be qualitatively large enough to achieve its objectives "and in particular whether a policy of prohibitions coupled with inducements would by itself by sufficient. "It may be that Government will yet have to exercise positive compulsion."[83]

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77 Cmd. 6527, foreword.

78 The Economist, 27 May 1944.

79 ibid., 3 June 1944.

80 Addison, op.cit., p. 247.

81 The Economist, loc.cit.

82 The Times, 20 June 1944.

83 The Economist, loc.cit.

On 7th June Dalton outlined the policy set out in the White Paper to the House of Commons. His comments on his speech illustrate the restrictions inherent in the Coalition and its influence on the content of the policy. "I was more than usually conscious of the difficulty of Coalition Government. One must use language which meant something, but would not cause an uproar on either side of the House. Thus there must be compulsion on employers, at least negatively through the refusal, if need be, of building permits. But not too much compulsion; there must be discussion and inducements as well. All this was difficult to put over."[84] The subsequent debate was marked by uncertainty over post-war economic prospects and the recognition of the inevitability of the demise of the Coalition but although the policy was criticised both as inadequate and as excessive the majority of speakers supported the President of the Board of Trade. "The chief criticism," the Economist noted, "was that the Government's intentions still do not go far enough; that there is still no proposal to direct particular industries to particular places or, in the case of London ... to bar further industrial development altogether wherever necessary; and that the location of existing industries will not be altered. It certainly cannot be assumed beforehand that the new location policy, which is consultative and persuasive in character, will prove sufficiently positive in practice to achieve its aims."[85]

(vi) Legislative Proposals

At a meeting of the sub-committee of the Reconstruction Committee on Industrial Problems on 31st July 1944 an interdepartmental committee on the Distribution of Industry was established under the Chairmanship of the Minister of Labour, Ernest Bevin.[86] The Committee's terms of

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84 Dalton, op.cit., p. 428.

85 The Economist, 10 June 1944.

86 R(I) 44 - Cols 87/14 & 15.

reference were:

(a) to supervise and control the development and execution of Government policy for securing the balanced distribution of industry as outlined in Chapter III of Cmd 6527.

(b) to consider such questions as may be submitted to them relating to projects for new industrial developments.

(c) to determine such issues as may be submitted to them regarding the allocation of Government factories, and

(d) to consider any applications which may be referred to them for the grant of facilities to individual firms to undertake preparatory work with a view to post-war expansion of civil production. The bulk of its administrative responsibilities were carried out by 3 panels, designated A, B and C with responsibility for, general questions of industrial distribution and projects for new industrial development, government factories, and facilities to prepare for the expansion of civil production. General questions of policy including the need for legislation fell to be discussed by the Committee itself.

The introduction of legislation, however, faced considerable obstacles. Although the White Paper represented a commitment to a location of industry policy, controversy still surrounded the means to be adopted. The proposition that the location of new factories in congested areas should be prohibited, appeared to command a widespread degree of political and industrial acceptance,[87] yet as a policy it was vigorously dissented from both on the grounds that was inadequate and that it went too far.

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87 See e.g. speech by Paul Cadbury to conference of the Town and Country Planning Association, The Times 5 Jul 1943, and speeches of Lord Balfour of Burleigh and Viscount Ridley, Hansard 5th Sers. H.L. Debs. vol. 129 cols. 633 and 641 10 Nov. 1943.

As regards the former the White Paper had not made any reference to the planning of land-use or locational policy within the context of long-term full employment and the Economist had suggested that powers of positive compulsion might be necessary. In the other direction both the Minister of Production, Oliver Lyttelton and the Minister of Reconstruction, Lord Woolton, had emerged during the drafting of the White Paper as in certain respects opposed to the policy and in particular to the idea of prohibitions.[88] Their attitude must, moreover, be regarded as expressive of a more widespread attitude within government, including the Board of Trade, towards the regulation of industry, which eschewed coercion of industry and sought instead to facilitate its progress. In a memorandum on the Location of Industry (Restriction) Order No. 2072, the hope was expressed that "the new controls indicated in the White Paper will be contained in newly formulated powers for the Government which can be as far-reaching as the country will respect, and the Government can obtain, but which will be framed in a new positive and constructive spirit. Instead of unlimited powers to prevent people from doing anything against the interests of the country as a whole, we should have unlimited powers to assist people to do whatever they can to further the interests of the country as a whole."[89] Against this intra-governmental opposition must, however, be set the support of the Chairman of the Distribution of

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88 Dalton's Diary, op.cit., Entries for 3 Dec. 1943, 28 Jan. 1944 and 22 Feb. 1944.

89 A Preliminary Consideration of Some Requisites of Post-War Control of Industrial Location in the Light of the Location of Industry (Restriction) Order 1942 - B.T. 106/22.

Industry Committee, Ernest Bevin who "regarded such a Bill as an essential part of the commitment to full employment which the Government had accepted," and who "joined forces with Dalton to get the latter's Distribution of Industry Bill through Parliament before the coalition broke up."[90]

Commenting on the absence of any legislative proposal the Times noted critically on 6th October that "the means of giving practical expression to official concern have yet to be seen." Dalton in a written answer on 17th October could make no commitment but expressed the hope that legislation would be introduced in the next Session.[91] At its third meeting the Distribution of Industry Committee discussed a memorandum from the President of the Board of Trade arguing the case for the introduction of legislation.[92] Two main areas of disagreement emerged during the meeting. Firstly, it could not be agreed whether the statement in the White Paper that "power will be taken to prohibit the establishment of a new factory"[93] meant that the power taken would be a general or specific one. In view of the disagreement it was decided "to fall back on the single, and slightly ambiguous, sentence in the White Paper on this subject."[94] Secondly, Dalton argued that a compromise should be struck between the need for "reasonable elasticity" in the exercise of the powers granted on the one hand, and the need for

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90 Bullock, op.cit., p. 339.

91 Hansard 5th Sers. H.C. Debs. vol. 403. col. 2215. 17 Oct. 1944.

92 DI (44) 8 - Cab 87/94. 27 Oct. 1944.

93 Cmd. 6527, para. 26.

94 Dalton's Diary. Entry for 31 Oct. 1944.

close definition of the areas in which they were exerciseable on the other, through enabling the exercise of certain powers outwith the areas. This proposal found general support but, as in the case of prohibitions, it was opposed by the Minister of Production, Oliver Lyttelton and the Minister of Supply, Sir Andrew Duncan. On a note of lesser significance the Minister of Town and Country Planning opposed the inclusion in the proposed legislation of a power to vary the list of areas on the grounds that it would expose the responsible Minister to pressure for their extension. Being unable to resolve these conflicts of views it was agreed that the President of the Board of Trade's proposals should be submitted to the War Cabinet.

In terms of Keynesian economics Beveridge's Full Employment in a Free Society which was published in November was "a far more radical document" than the White Paper which had preceded it.[95] Of particular significance was the emphasis laid on location policy as a fundamental aspect of a policy of full employment and on planning as an integral feature of it. "For an effective attack upon mass unemployment, as much as for an effective attack on the evils of urban congestion, control over the location of industry is indispensable. This control must be both negative, prohibiting undesirable location, and positive, encouraging desirable location. The control must be exercised ultimately by a central authority, making a national plan for the whole country..."[96]

After consultation with the departments concerned the President of the Board of Trade sent his legislative proposals in a memorandum to the Cabinet on 10th November and sought permission to authorise the drafting of the legislation.[97] In general the policy was seen as

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95 Winch, op.cit., p. 283.

96 Lord Beveridge, Full Employment in a Free Society, (2nd ed. 1960) p. 170.

97 WP (44) 640 - Cab 66/57.

anticipatory rather than as merely remedial and as an integral feature of a policy of full employment. "It will be the aim of the Government to anticipate the occurrence of depression rather than, as in the past, to attempt to remedy it, after it has occurred, and it will therefore be essential to link up the administration of this policy with the manpower budget of the Ministry of Labour."[98] With regard to the area of exercise of the proposed powers it was proposed that development areas, should as previously, be listed in a Schedule to the Act, but that the list should be reviewed after 3 years and that changes should be made by Order subject to affirmative resolution.[99] Within those areas the appropriate authority should be empowered to build factories, establish trading estates, acquire land and clear sites, but these powers should be exerciseable outside the development areas in appropriate cases.[1] The provision of financial facilities had not yet been agreed between the Board of Trade and the Treasury but it had been agreed that these should be only available in development areas.[2] Apart from the provision of inducements the memorandum also proposed, adopting the same ambiguous formulation as had been fallen back on at the meeting of Industry Committee, that powers should be taken "to prohibit the establishment of a new factory in a district where serious disadvantage would arise from further industrial development,"[3] and that industrialists should be required to notify the government of their intention of establishing a new factory or transferring an existing one. A division of opinion existed between

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98 ibid., para. 2.

99 ibid., para. 3.

1 ibid., para. 4.

2 ibid., para. 5.

3 ibid., para. 7.

the departments concerned over whether the requirement of notification should extend to the starting of a business in an existing building and it was recommended that the Bill should include a provision to allow Parliamentary opinion to be established.[4]

It was clear that the proposals faced considerable opposition. No reference was made to the Bill in the first draft of the King's Speech, an ommission of which Dalton complained to the Lord President of the Council, Clement Attlee on 10th November and over which he threatened to resign, arguing that he would not defend it in public.[5] Four days later in response to criticisms the Minister of Reconstruction denied on the third reading of the Town and Country Planning Bill that the Government had "any intention of delaying the introduction of legislation to give effect to this policy for a balanced distribution of industry."[6]

Dalton's proposals were submitted in accordance with practice to the Lord Privy Seal, Lord Beaverbrook and the Minister of Information, Brendan Bracken whose collective role is described by Addison as that of a "hatchet-man."[7] In a joint memorandum they strongly criticised the proposals, arguing that "in certain important particulars Dr. Dalton gives an unjustified interpretation of the White Paper proposals."[8] Their criticisms centred on the areas in which the powers would be exerciseable, the requirement of notification and the potential overlap of functions between government and private enterprise. The exercise

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4 ibid., paras. 8-9.

5 Dalton, op.cit., pp. 447-8.

6 Hansard. 5th Sers. H.L. Debs. vol. 133, col. 1159. 14 Nov. 1944.

7 Addison, op.cit., pp. 236-7.

8 W.P. (44) 652 - Cab 66/58

of powers outwith the areas would, it was considered, "be an unwarrantable departure from agreed policy and might be exercised to defeat the social purpose for which Development Areas are delimited."[9] On notification it was considered that "the extension of the government's veto from contemplated new industrial development to the altered use of existing industrial capacity would be an unwise and improper interference with the conduct of business [which] could not be defended as reasonably inherent in the White Paper."[10] Improvement of the basic services was similarly condemned as an extension of the scope of the White Paper. "It is essential that a direct financial commitment by the Government for these purposes should be specifically limited to the provision of services such as fall outside the province of free enterprise."[11] Finally the provision of financial inducements by the Government was criticised as improper. "It is important that industries set up in Development Areas should be healthy and vigorous. They must therefore be able to commend themselves to existing financial institutions, which have ample resources and vast experience."[12] Significantly no criticism was made of the proposed restrictions on the location of industry despite the disagreement which had been evident at the meeting of the Distribution of Industry Committee on 31st October.

The War Cabinet discussed the proposals and the criticisms of them on 16th November. Dalton argued for their acceptance on the grounds that they commanded a widespread degree of support; they had, he stated, been substantially agreed by the Distribution of Industry

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9 ibid., para. 1. Emphasis added.

10 ibid., para. 2.

11 ibid., para. 3.

12 ibid., para. 4.

Committee and all parties favoured action to prevent a recurrence of the problem, and that his statement in the House of Commons on 17th October and that of the Minister of Reconstruction in the House of Lords on 14th November amounted to a commitment to introduce legislation. He was supported by the Minister of Labour who, however, pointed out that complete agreement had not been reached on the exercise of powers outside the areas and the prohibition of the location of industries in areas; the disagreement on which was underlined by the Minister of Production, Oliver Lyttelton. In view of the disagreement the matter was deferred for further consideration at an early date.[13] The issue was, however, immediately discussed further on the question of the Kings Speech. Dalton argued that the omission of any reference to legislation on the distribution of industry or restrictive practices would result in an amendment on the Address. In the face of the opponents of both measures, "several of whom were most persistent,"[14] he agreed to the ommission of the latter and, in relation to the former, to the restriction of the exercise of the powers to the listed areas. This concession on the first outstanding area of disagreement did not, however, secure a commitment to legislate, merely to the inclusion of a vague form of words; "any reference to proposals for securing the balanced distribution of industry should not constitute a definite promise of legislation." It was therefore agreed that the sentence: "They are considering the methods by which the policy for the maintenance of a high level of employment can be maintained," should be inserted.[15]

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13 WM 151(44) 5 - Cab 65/44.

14 Dalton, op.cit., p. 448.

15 W.M. 151(44) 6 - Cab 65/44. In the King's Speech the parenthetic "especially with regard to the distribution of industry in the Development Areas", was included. Hansard 5th Sers. H.C. Debs. vol. 406, cols. 7-8. 29 Nov. 1944.

Although the inclusion of a reference to the distribution of industry had prima facie been achieved at some cost Dalton clearly regarded the form and content of the legislation as subordinate to its enactment and defects in its drafting and overall coherence as surmountable, to a certain extent at least, by its administration. "The only practical result of restricting powers to building [sic] within the Development Areas and not outside will be that the latter will have to be a much longer list, but there is no serious objection provided administration is sensible."[16]

It is impossible to guage the extent of the opposition to the proposals. Bevin in a letter to Attlee on 22nd November spoke of "a great struggle on Distribution of Industry"[17] and Dalton was sufficiently concerned to attempt to enlist the support of the Prime Minister, emphasising in doing so, the developmental as opposed to the restrictive aspects of the proposals. "Our first aim is development - new factories, better communications, etc. - in these difficult areas, rather than restriction elsewhere, though this, too, is contemplated in the White Paper, as in the Barlow Report, and some of my colleagues attach importance to stopping the sprawl of London, and to strategic reasons for dispersion of important industrial targets." He ended his letter with a plea for the discharge of the debt which, he argued, was owed to the population of the areas. "I have long taken a keen interest in this question of Development Areas and have often spoken on it both in Parliament and elsewhere. I know those areas and their people well. Through no fault of their own, they had a very raw deal between the wars. They are some of the pick of our industrial workers and of our

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16 Dalton's Diary, Entry for 16 Nov. 1944.

17 Bullock, op.cit., p. 339.

fighting men, and I should feel, if we cannot get effective legislation next session, that we should be letting these fine people down, who will have contributed so much to victory."[18]

On 23rd November, at the instigation of Bevin, Dalton sought the support of Lyttelton, who had been one of the most important and consistent opponents of the proposals throughout their discussion in the Reconstruction Committee, the Distribution of Industry Committee and the Cabinet, and secured his support in return for the restriction of the power to build to the Development Areas and, on the requirement of notification, its simplification and the abandonment of the requirement of three months notice."[19] The effect of this he hoped would be that "M and B will not carry much weight as a consequence."[20] Churchill's response to Dalton's letter, far from being the promise of support sought was, however, to propose to Bevin that "as the discussion of the matter in the Cabinet had shown political issues to be involved, the Distribution of Industry Committee should be strengthened by the addition of Beaverbrook, the Lord Privy Seal," a suggestion that can only be interpreted as an attempt to prevent any further progress on the Bill.[21] It was decisively rejected by Bevin who "pointed out that the question of policy had already been settled by the Cabinet's adoption of the White Paper on Employment policy and that the only question under discussion was the legislation needed to carry this out.[22]

By the time discussion of the proposals was resumed at the War Cabinet's meeting on 13th December the opposition appeared to have been

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18 Dalton, op.cit., p. 447.

19 Dalton's Diary, Entry for 23 Nov. 1944.

20 ibid., M was Morrison, Minister of Town and Country Planning and B, either Beaverbrook or Bracken.

21 Bullock, op.cit., pp. 339-40, and see Addison, op.cit., pp. 236-7.

22 Bullock, op.cit., p. 340.

considerably reduced. A minute to Woolton from the Reconstruction Committee Secretariat noted that the concessions which Dalton had made had effectively precluded further objection by Beaverbrook and Bracken and that his agreement with Lyttelton had rendered the argument that the Distribution of Industry Committee was divided, no longer tenable.[23] At the meeting it was again argued that the proposed improvement of services in the areas "would lead to unfair discrimination between one industrialist and another and encourage the establishment of uneconomic factories."[24] Dalton argued in reply that "although everything would be done to encourage labour mobility the shortage of houses and the fact that certain industries must be located in certain areas necessitated retention of a considerable part of the population in the areas where unless there was some diversification of industry serious depression and unemployment were likely to develop in peacetime. Now industries might be deterred because of the absence of suitable communications and services and it was for that reason that assistance should be given." The sole intention was to offset the disadvantages of establishing in the areas and the fraction of total industry effected would be small. Whereas under the existing legislation it was possible to give grants to industrialists under the proposed legislation they would only be given to local authorities and there should therefore be no danger of unfair discrimination.[25] On the question of notification Dalton "intimated his willingness" to amend his proposals so that, in the case of the establishment or transfer of industries to the areas notification would only be required before the

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23 11 Dec. 1944 - Cab 124/640.

24 Presumably by Beaverbrook who Dalton records in his diary "makes most of the opposition." Bracken was ill. Entry for 13 Dec. 1944.

25 W.M. 168 (44) 2 - Cab 65/44.

placing of contracts, in the case of extensions the only obligation would be to notify without requirement as to time and in the case of changes of use the obligation would be dropped. The sole intention of the system was that "the Board of Trade should receive timely warning to enable them to take remedial action where necessary." The Board "could make representations to industrialists but [they] would be under no obligation to accept this advice, although experience showed that they would often welcome it." Nevertheless it was objected that it "would inevitably lead to Government interference which would hamper enterprise and discourage private initiative and desirable new developments."[26]

The Presidents of the Board of Trade's amended proposals gained the support of the War Cabinet, the general feeling of which was that "within the limits indicated in discussion there was a good case for grants to local authorities for the improvement of services and for requiring notification."[27] It was, however, agreed that it was desirable for the Cabinet to see the draft clauses dealing with these matters when they were prepared. Authorisation was therefore given for the drafting of the Bill and the President of the Board of Trade was invited to bring it before the War Cabinet. On the following day Dalton gave instructions for the drafting of the Bill.[28]

The first draft of the Bill was received on 8th January and its text finalised by 2nd February.[29] Under "an unexpected, but welcome

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26 ibid.,

27 ibid.,

28 Dalton, op.cit., p. 448. The difficulties of reconstructing events and arguments from Cabinet minutes are well illustrated by the subsequent comment by Douglas Jay that the minutes for the meeting of 13th Dec. "hardly record the views expressed or decisions arrived at." Minute of 6th Feb. by John Jewkes - Cab 124/640.

29 Dalton, loc.cit.

demand" for more Bills including his own, Dalton sought early Cabinet approval for its provisions and its referral to the Legislation Committee. At the same time he canvassed support for the Bill, including that of the acting Prime Minister, Attlee and made known his intention of resigning if the Bill was not enacted.[30]

In the Cabinet discussion on 7th February the emphasis switched to Clause 9 of the Bill which was based on the commitment in paragraph 26(a) of the White Paper which had previously excited no comment at Cabinet level on the assumption that the power taken would be a reserve one exercisable in individual instances. Clause 9, however, proposed that the Board of Trade should be empowered to determine by order subject to affirmative resolution areas in which the erection or extension of any industrial undertaking would be prohibited except under licence. In a memorandum to Woolton, Professor John Jewkes, who was attached to the Ministry of Reconstruction, made it clear that its provisions were unexpected and that in return for its abandonment Clause 8 "which Dalton is obviously happy to lose since it is useless" should be strengthened.[31] It was, however, important to strengthen Clause 8 since if both clauses were lost "this measure simply becomes a Development Area measure and not one for the balanced distribution of industry."[32] In a further memorandum of the following day the grounds

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30 Dalton, op.cit., pp. 449-50.

31 6 Feb. 1945 - Cab 124/640. In his memorandum accompanying the Bill Dalton had stated his willingness to drop Clause 8 since, as a result of abandonment of the requirement of three months notice, "I am doubtful whether this clause in its latest form is really useful." W.P. (45) 78. 2 Feb. 1945 - Cab 66/61.

32 6 Feb. 1945 - Cab 124/640.

on which Clause 9 was considered objectionable were further set out. Firstly it would increase the burden on both industry and the Board of Trade. Under the position as originally conceived the Board of Trade would merely take a reserve power to prohibit development where it was considered undesirable, a position which was regarded as more flexible and hence desirable in that "the Board of Trade could have done as much or as little as public opinion required." Under Clause 9 by contrast industry would have to assume the onus of proof as to why development should be allowed and the Board of Trade would have to justify every decision to grant or withhold permission."[33] Secondly the clause committed the Government to accepting responsibility for the regulation of industrial development in Greater London and Birmingham, a position which the Reconstruction Committee had regarded as impracticable. Thirdly and finally the clause was opposed by MPs in congested areas.[34]

Although Dalton had pointed out that information on changes of location could be obtained through local planning authorities by the Ministry of Town and Country Planning[35] his offer, during the Cabinet's discussion of the Bill on 7th February, to drop clause 8 was opposed on the grounds that in the absence of the information the Board of Trade would be less likely to be able to influence the location of industry and it was decided that except in cases of urgency a period of three months should be allowed to elapse between notification and the erection of new

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33 This view of the disadvantages of the clause for the Board of Trade bears a marked similarity to the arguments advanced in favour of establishing the Restrictive Practices Court.

34 7 Feb. 1945. No written evidence has been uncovered to support this last claim but clause 9 was opposed subsequently by regional interests and in particular those in Birmingham and London, and see Dalton, op.cit., p. 452.

35 W.P. (45) 78 - Cab 66/61 2 Feb. 1945.

buildings on land not already occupied by other buildings in use by the undertaking for industrial purposes. Strengthening of the clause was therefore slight in that extensions which it had been stated in the White Paper would be within the scope of the obligation and changes of use which Dalton had argued were inherent, were excluded. The corollary of the strengthening of clause 8, the abandonment of clause 9 did not, however, succeed. The argument that in both the Reconstruction Committee and the Distribution of Industry Committee "it had been contemplated that the power to be taken would be not to declare "restricted areas", a power which would perhaps be more appropriate to planning legislation than to legislation concerned with the Distribution of Industry - but to veto specific proposals" was rejected and the clause approved subject to minor amendments.[36]

The only other discussion of the Bill centred on clause 4 which empowered the provision of financial assistance to industrial undertakings by way of loans and grants. It was agreed, on the suggestion of the Chancellor of the Exchequer, that assistance should only be provided on the recommendation of an advisory committee as had been the case under section 6 of the Special Areas (Amendment) Act, 1937 but the argument that the form of assistance should be confined to loans, since it was undesirable that the Government should become equity holders or guarantee the interest payments or dividends of undertakings, was rejected in principle on the grounds that such powers had been possessed under the Special Areas Acts 1934 to 1937 [37] and that it had often

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36 W.M. 15 (45) 2 - Cab 65/49. 7 Feb. 1945.

37 The provision of assistance to undertakings by way of grant was in fact restricted to, new companies for the purposes of rent, income tax or rates (Special Areas (Amendment) Act, 1937 s.3) and site companies, ibid., s.5.

proved preferable to assist undertakings by way of temporary grants. Concessions were, however, made and it was agreed that there should be no power to take an equity holding and that the Chancellor of the Exchequer should examine the desirability of excluding the power to make grants towards dividends.[38]

Examination of the approved Bill by the Legislation Committee was postponed until 20th February when its introduction was approved subject to minor amendments.[39] On the following day it was read for the first time and ordered to be printed.[40] The reaction of Churchill to its introduction was indicative of the extent of the opposition which it had engendered. Dalton recounts that "the Prime Minister was sitting on the Front Bench, just back from Yalta. He sent the Chief Whip after me as I was leaving the Chamber. "Have you got authority to introduce your Bill?" he asked me. "Yes", I said, "its been through all the Committees now and the War Cabinet." "Perhaps we ought to have another look at it," he said. I assured him that this was quite unnecessary. It was also too late. The Bill was already printed and would be distributed next day. Its backers were Anderson, Lyttelton, Tom Johnston, W.S. Morrison and Waterhouse. I mentioned to the Prime Minister several Ministers with whom I had now reached full agreement. But some assiduous talkers had clearly left a deposit of doubt in his mind.[41]

Reactions to the Bill varied. The Times saw the provisions on the development areas as subordinate to clause 9 on the restriction of industrial development and greeted the whole as "a triumph for the principles of the Barlow Report."[42] The financial page comment was

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38 As was in fact done.

39 HPC - Cab 75/21 20 Feb. 1945.

40 Hansard, 5th Sers. H.C. Debs. vol. 408. col. 816. 21 Feb. 1945.

41 Dalton, op.cit., p. 450.

42 The Times, 23 Feb. 1945.

more cautious and took a different view of the provisions on the development areas. Industrialists would look on the Bill with mixed feelings: the restriction of positive inducements to the development areas and their unexpectedly blunt form would cause uneasiness and "it might be feared that the preoccupation with the development areas (which are areas where natural assets are wasted because of natural changes in industry) might in unwise hands make the Bill an instrument for obstructing inevitable change."[43] Although there was wide agreement that public guidance of industry was needed "that does not exclude anxiety lest the Government should go too far in expecting mobility from industry and not from labour."[44] The Economist, by contrast, was of the view that greater weight was attached to the provisions on the development areas than those for the restriction of location. "The emphasis of the Bill is more on the attraction of industry to the Development (ex-Special, ex-Depressed) Areas than on exclusion from London. Its parentage, that is to say, is to found in the Special Areas Acts of the pre-war decade and not in the Barlow Report."[45] Turning to the likely effects of the administration of the measure it emphasised the importance of existing powers under the Defence Regulations and the likely inadequacy of its powers in the long-term. "Purely persuasive powers may be very effective in persuading industry to go to South Wales, when the persuading department can reinforce its persuasions by the grant or withholding of priorities for labour, materials or building. The same powers may be wholly ineffective when

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43 ibid., emphasis added.

44 ibid.

45 The Economist, 24 Feb. 1945.

the period of scarcity comes to an end ... The negative provisions, in fact, are of the mildest ... If these powers are energetically administered in the years immediately after the war, when their leverage in the fulcrum of scarcity will be very great, they may largely solve the problem of the existing Development Areas. But the Bill will constibute little to the relief of congested areas, and, in the longer run, its powers both of attraction and repulsion would seem to be too weak to constitute a really effective location policy."[46] These criticisms were reiterated on 3rd March. "In essence, it is the old Special Areas legislation, which it supersedes, stream-lined, strengthened and brought up to date - but still Special Areas legislation ... A judgment on this Bill therefore depends entirely on how much hay can be made in the existing Development Areas while the sun of wartime control shines."[47]

The Second Reading of the Bill was delayed until 21st March by which time, the Times noted, the President of the Board of Trade faced criticism from those who regarded the Bill as inadequate and those who regarded it as an unwarranted interference with industry.[48]

Moving the Second Reading, Dalton described the Bill as "the first instalment of legislation to promote employment after the war and to promote a healthy and well-balanced industry life in all parts of the country. This is a Bill to abolish distressed areas, and also to make a beginning with the carrying out of the principles of the Barlow Report. ... This Bill is not the last word in legislation on this subject. It

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46 ibid.

47 The Economist, 3 Mar. 1945.

48 The Times, 20 Mar. 1945.

puts first things first, and deals with the most urgent needs."[49] The first seven clauses of the Bill dealt with the development areas. Clause 1 empowered the Board of Trade to acquire land, erect buildings and carry out such works as appeared expedient for the purposes of facilitating the provision of premises, or sites for such premises, or access to such premises, for meeting the requirements of industrial undertakings. The Board was empowered by Clause 2 to make loans with the consent of the Treasury to trading or industrial estate companies for the purposes of providing industrial premises in development areas.[50] Clause 3 provided that where it appeared to any Minister that basic services for which he was responsible were inadequate he could, with the consent of the Treasury, make grants and loans to bring them up to the national standard. Significantly, despite Dalton's claim in response to the criticisms made by Beaverbrook, the class of potential recipients of assistance was not restricted to local authorities.

The Treasury was empowered by clause 4 to assist undertakings in the areas financially, in accordance with the recommendations of an advisory committee, by way of loans and annual grants towards interest payments. This provision, which replaced the assistance which had been available through the Special Areas Reconstruction Association, Nuffield and sections 3 and 6 of the Act of 1937, was narrower in scope and did not extend in the case of new undertakings to assistance

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49 Hansard, 5th Sers. H.C. Debs. vol. 409. cols. 837-8. 21 Mar. 1945.

50 This power was narrower than the corresponding section 5(2) of Special Areas (Amendment) Act 1937 which empowered the provision of financial assistance by way of both loan and subscription to share capital.

with rent, income tax and rent. Although this decreased the attractiveness of the areas, this disadvantage was overcome, in the case of the last of these, by the continued use of 1939 land values as the basis for the first five years of a tenancy.[51] The criteria for assistance remained unchanged: assistance "will only be given with discretion. It will only be given to firms which have good prospects of being able ultimately to carry on successfully without further assistance, and it will be given for a limited period of time only."[52] The Board of Trade was empowered by clause 5 to acquire derelict land in development areas either by agreement or compulsorily, for the purposes of bringing it into use or of improving the amenity of the neighbourhood and then either itself or through the agency of a non-profit making body or local authority to secure that purpose. The scope of the areas was delimited in Schedule 1 and clause 6 empowered the Board of Trade to add areas to the Schedule by order subject to affirmative resolution at any time and, after the expiry of three years after the passing of the Act, to remove areas by the same procedure. Clause 7 provided for the repeal of the Acts of 1934 and 1937, the winding up of the Special Areas Fund and the transfer of existing commitments to the Board of Trade or other appropriate Departments. Clauses 8 and 9, the genesis of which we have already examined, dealt with the distribution of industry, covering notification and the prohibition of development in areas respectively and the remaining clauses were supplementary. In conclusion Dalton emphasised the Bill's preliminary nature and the fact that it was a coalition measure. It had been described

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51 Loasby, op.cit., p. 36.

52 Hansard. 5th Sers. H.C. Debs. vol. 409. col. 841.

as "a hopeful step in the right direction." I claim that much for it, and no more. This Bill represents the largest measure of common agreement, on an urgent problem, in an all-party Government."[53]

In the subsequent debate reactions to the Bill largely fell into three classes; opposition of varying strengths incorporating fundamental criticisms of the measure; general support coupled with minor criticisms; and outright opposition based on laissez-faire principles. Opposition in the first class centred on a reasoned amendment moved by Sir George Schuster, Labour MP for Walsall criticising the absence of both adequate planning machinery and any wider conception of the policy, linking it, in particular, to a policy of full employment. "While [the Bills] provisions would give the Board of Trade heavy responsibilities and formidable discriminatory powers which may affect not only particular localities but the general development of British industry, no steps have been taken for establishing a central industrial tribunal to survey the whole national position as recommended in the Report of the Barlow Commission; and ... there has been no satisfactory implementation of the Government's intention as indicated in paragraph 30 of Cmd. 6527 that the Board of Trade should be suitably strengthened for undertaking new responsibilities such as those proposed in the Bill."[54]

In support of the amendment Schuster argued that the underlying conception of all the Government's approach to this matter seems to me to be one that merely looks back to pre-war experiences and that has nothing more constructive in it than the idea of shifting to the formerly Depressed Areas industries which have found their natural homes elsewhere. That

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53 ibid., col. 854.

54 ibid., col. 866.

would not be a policy for increasing the total wealth of the country, which is what we want to do."[55] Seconding the amendment W.J. Brown MP for Rugby described the Bill as "about as relevant to our industrial situation as a sticking plaster on a wooden leg ... The truth about this Bill is that it is a Bill to compel everybody to submit their purposeful productive proposals to the negative authority of the annonymous ... This Bill is a veneer for a vacuum. It is something which conceals an empty space."[56] Similar criticisms were voiced by several other MPs who did not necessarily extend their opposition to the extent of supporting the amendment. Mr. Clement Davies, MP for Montgomery expressed himself to be "sincerely worried" by the lack of planning envisaged.[57] Mr. Sloan MP for South Ayreshire dismissed the Bill as "only the old Special Areas legislation brought up to date; it is the old untrusted and unsuccessful legislation which we thought had gone away unwept and unsung"[58] and Mr. Burke MP for Burnley argued that "it is wrong to call this Bill the Distribution of Industry Bill, because it is nothing of the kind. It is a Special Areas Bill."[59]

The majority of speeches fell into this category and that of general support for the measure coupled with minor criticisms. Among the most significant speeches falling into the latter category was that of Mr. Norman Bower, Conservative MP for Harrow who wholeheartedly welcomed the measure on behalf of all members of the Conservative Reform Committee.[60] Outright opposition to the Bill was limited and its

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55 ibid., col. 869.

56 ibid., cols. 879-91.

57 ibid., col. 927.

58 ibid., col. 904.

59 ibid., col. 912.

60 ibid., col. 909.

opponents were careful to distinguish opposition to the measure from opposition to the objective; a feature of their speeches which illustrated how widespread was the change in attitudes which had taken place since the previous decade. As the Times said, "the House though prepared to argue about the methods proposed, was not disposed to question the need for special measures."[61] Sir John Wardlaw-Milne, Conservative MP for Kidderminister in a speech later described by the Economist as "so extreme as to be ridiculous"[62] described the Bill "as one of the most dangerous ever introduced during my time in the House."[63] While he accepted as did all members, the object of the Bill he sought assurances that it would be substantially amended before it received the Royal Assent. Mr. Manningham-Buller, Conservative MP for Buller opposed the measure on the grounds, which had dominated industrial and governmental reactions to the problem during the nineteen-thirties and to which, given the belief that a slump was inevitable after the war, considerable importance was still attached, that it would promote unfair competition. "One of the dangers of this Bill is that it can facilitate the development of an industry in a particular Development Area and so cause competition with an old-established industry in another area and so create unemployment in that area. This, to me, is an entirely wrong principle."[64]

Reactions during the debate therefore revealed the persistence of attitudes rooted in dogma and perceived self-interest but these were outweighed by the emergence of views which were expressive of wider political aspirations and conceptions of policy and in particular those

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61 The Times, 22 Mar. 1945.

62 The Economist, 31 Mar. 1945.

63 Hansard. 5th Sers. H.C. Deb. vol. 409 col. 860.

64 ibid., col. 933.

afforded by Keynesian economics and the Barlow Report. Viewing the debate in this latter context the Economist considered that it "does not provide any encouragement to those who hope, almost against hope, for the emergence of a consistent and constructive policy for the economic development of the country." The President of the Board of Trade, in particular, had "ostentatiously refused to consider the Bill in the wider context of economic policy as a whole."[65] The Times in a complete reveral of its earlier assessment of the Bill similarly criticised both it and the President of the Board of Trade. "He made it plain that the Bill represents "the largest measure of agreement" on an urgent problem in an all-party Government, but he left it absolutely obscure whether there is any intention that the second half of the Bill is to be more than a dead letter. And what he omitted reinforced the impression given by what he said, that the Government are far more concerned with the development areas than with the wider picture of which they are but an essential feature."[66]

The Bill was read a second time without division, the reasoned amendment having been withdrawn, and its Committee Stage was started on 8th May. However, the break up of the Coalition Government on 23rd May and the resumption of office by Churchill as the head of a caretaker Government with Lyttelton replacing Dalton as President of the Board of Trade cast immediate doubt upon its future. Alarmed that the opportunity would now be seized by opponents of the Bill and in particular of clause 9 to kill it, Dalton wrote on the same day to Churchill, Lyttelton and James Stuart, the Chief Whip offering to drop the clause "which had aroused much apprehension and had nothing to do except indirectly with

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65 The Economist, 31 Mar. 1945.

66 The Times, 22 Mar. 1945.

the Development Areas."[67] On 29th May he formally suggested in Standing Committee that, because of the change in the position and the shortage of time, the clause should be dropped.[68] His suggestion was agreed to and the Bill completed the remainder of its parliamentary stages without incident or division before receiving the Royal Assent on 15th June. While the Times considered the "sacrifice" of clause 9 a matter of regret,[69] the Economist more pointedly considered that its effect was to leave the Bill "deserving its name less than ever."[70]

(vii) Conclusion

Location policy before the war had latterly as its purpose the relief of unemployment in defined areas and this approach remained characteristic of the Distribution of Industry Act, 1945, despite the emergence of wider considerations of the optimal use of resources and the planning of land use which were evident in Keynesian economics and the Barlow, Scott and Uthwatt Reports respectively. Several reasons can be adduced in the explanation of the lack of impact of these broader considerations and the persistence of the previous pattern. In the case of full employment, the connection between it and a location policy does not appear to have been fully made and the political impetus for the legislation appeared to derive as much from an unwillingness to contemplate a recrudesence of pre-war conditions as from a rational connection between a policy of full employment and a location policy. Reference was admittedly made to the policy within the overall context of full employment and manpower

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67 Dalton, op.cit., p. 453.

68 House of Commons, Official Report. Session 1944-45 col. 603.

69 The Times, 30 May, 1945.

70 The Economist, 2 June 1945.

planning but as with planning generally this does not appear to have been a predominant consideration. This can be seen in the case of the emphasis placed on the planning of land use in the Barlow, Scott and Uthwatt Reports which was reflected in clauses 8 and 9 of the Bill. Planning, as has been suggested, was marginal in that it left undetermined the content of policy and the lack of fundamental importance attached to it is evident in Dalton's rationalisation of the loss of clause 9 as nothing to do, "except indirectly" with the Development Areas.[71] Its sacrifice, moreover, ensured the enactment of the remainder of the Bill dealing with the areas.

The apparent equanmity with which the loss of clause 9 and with it the planning aspects of the Bill, was met was, in addition, conditioned by the opposition which the clause had engendered. In this respect the coalition was of fundamental importance. Although, as we have seen, the objective of a location policy was not significantly dissented from, at the level of means, only the provision of inducements which had first been accepted in November 1936 outlasted their application to the Special Areas and even then some of the forms proposed provoked considerable opposition. This opposition was strongest in the case of the projected use of restrictions and directions the use of which was nevertheless inherent in any policy for the planned distribution of industry. The negative controls which existed continued to be used outside the framework of the legislation and although the case for positive controls was recognized and in certain cases accepted as necessary that acceptance was insufficiently widespread to overcome the oppostion to their proposed use. Given these limitations it was inevitable that the legislation should emerge as facilitative and remedial rather than coercive and prescriptive.

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71 supra.

15. LOCATION POLICY BETWEEN 1945 AND 1964

Introduction

The consensus between the political parties over distribution of industry policy was maintained between 1945 and 1964. That consensus was, however, increasingly more one of form than of substance and latterly concealed active disagreement between the parties over the policy's function. Two particular conceptions of policy may be distinguished during this period. The first which was adhered to by both parties until the late nineteen fifties saw the policy's function as being essentially social. It involved a relief of unemployment as an end in itself in those areas where it occurred. The second saw the function of distribution of industry policy as less social than economic, its active pursuit was seen as an integral aspect of a policy of economic growth. That objective had, in turn, implications for the methods adopted in the policy's implementation. The second conception was thus firmly allied to the disaffection with "stop-go" policies and the return to economic planning, reviving a view of distribution of industry policy which had briefly been in evidence before the enactment of the Distribution of Industry Act 1945. The history of policy during this period is essentially one of the supersession of the first conception by the second.

(i) The Labour Government 1945 to 1950

Two features of distribution of industry policy between 1945 and 1950 are of particular significance. The first was the extent and durarability of the consensus between the parties over the policy which was reflected in the virtually apolitical status which it attained despite the growing disagreement between the parties over economic policy. That consensus had its genesis in the coalition origins of

the Distribution of Industry Act 1945 and was fostered by the pursuit of a policy of full employment which overcame regional and industrial opposition based on fears of the solution of unemployment in one area at the expense of its creation in another and of unjustified competition. That consensus extended to the form and extent of the policy. For the government, although it was difficult to distinguish persuasion from coercion when reliance was placed on wartime controls, the dominant conception of the policy which mirrored its general approach to industry of "democratic planning" was one of facilitation. "It has been, and is, a specific principle of British location policy that firms should not be coerced."[1] This approach was shared, and its sufficiency was continuously emphasised, by the Conservative Party. "I want to say that I agree with the President when he declines, as far as possible, to use compulsory powers in this matter of the distribution of industry. At the time when I was at the Board of Trade, in 1945, I took the view, and I have not gone back on it since then, than there was an unique opportunity open to the government and industry, working together, to steer industries into the development areas or into other desirable locations."[2] Compulsion which had been seriously canvassed before and during the debates on the Distribution of Industry Act was not discussed again.

The second factor was that in a development the beginnings of which were evident in the same debates and which reflected the decline of planning generally, specific concern with the achievment of a balanced distribution of industry effectively disappeared.

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1 M.P. Fogarty, The Location of Industry, in Worswick and Ady, op.cit. p. 269.

2 Hansard 5th Sers. H.C. Debs. vol. 473. col. 1041, 4 Apr. 1950. Oliver Lyttelton.

Between 1945 and 1948 the Government pursued policies of full and local employment with equal vigour but in 1948 the emphasis shifted from the latter to such an extent as to amount "almost to its abandonment."[3] The Development Areas' share of total factory building approved declined from over fifty per cent between January 1945 and June 1948 to less than twenty per cent between July 1948 and June 1951.[4] The primary reason for this abrupt reversal of policy was the sterling convertibility and balance of payments crisis of the autumn of 1947 which led to a major revision of economic policy in which imports and investment were sacrificed for increased exports. Cuts in capital expenditure in the areas fell mainly on factory building (including the advance factory programme which was halted entirely) which constituted the main form of assistance to the areas. The attachment of a lower priority to the policy was also justified by the conception of it as a short-term transistional measure aimed at solving a temporary problem of regional unemployment which appeared to be confirmed by the non-recurrence of the pre-war pattern of unemployment. The extent to which the improvement in the areas was attributable to the policy was, however, doubtful.[5] The increase in employment resulted largely from a boom in the basic industries and did not therefore remove the source of the areas vulnerability or the need for the continued application of the policy. Moreover it had been achieved at a time when the controls which were exercisable over the distribution of industry were

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3 Loasby, op.cit., p. 39.

4 McCrone, op.cit., p. 115.

5 ibid., pp. 113-4.

economically, at their most significant since they covered factors such as space and materials, the lack of which constituted the main obstacle to increased production. As the demand for them was met the impact of the controls could be expected to diminish.

This shift in priorities was of longer-term significance in that it was accompanied and supported by a gradual revision of the dominant conception of the objectives of the policy as social rather than economic. In fact this revision stemmed from the perception of the policy as an obstacle to the complete mobility of resources and hence the maximisation of productive potential. Commenting on the Budget of April 1947 the Times criticised the emphasis on the development areas as "social rather than industrial."[6] In so far as the criticisms made at this time implied that the policy was implemented without sufficient regard being paid to the locational needs of individual industries and the relationship between location policy and overall economic policy it was justified.[7] However, the antithesis between location policy and general economic policy was false. It did not follow from the realisation that the implementation of policy had disadvantages that economic policy should be determined without reference to regional needs or that no attempt should be made to influence the location of industry. The conceptualisation of distribution of industry policy as social ignored in particular its role in the maximisation of productive potential. Although political commitments to the policy remained unaffected by the criticisms made of it, sight was largely lost of these economic considerations.

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6 The Times, 18 Apr. 1947.

7 See e.g. The Economist, 27 Sept. 1947.

Apart from ancillary instruments such as giving firms locating in the areas preference in the allocation of scarce resources there were two main instruments of location policy during this period, one negative and the other positive. The former, building licensing, was used as a result of the loss of clause 9 of the Distribution of Industry Bill as a temporary means of controlling the location of industry. The shortage of factory space in the immediate post-war period made it highly effective. The loss of clause 9 was permanently remedied by the enactment of section 14(4) of the Town and Country Planning Act 1947 which replaced the obligation in section 9 and 10 of the Distibution of Industry Act 1945 to notify the Board of Trade of proposed developments, with a comprehensive means of controlling the location of industry, the system of industrial development certificates (IDCs).[8] Under the procedure set out in section 14(4) a local planning authority could only consider a planning application for manufacturing premises in excess of 5,000 square feet in area if the Board of Trade had first issued an IDC certifying that the proposed development was in accordance with "the proper distribution of industry" a phrase which was left undefined in the Act.

Allied to the negative control exercisable over the location of industry through building licensing and latterly through the system of IDCs was the main inducement to the location of industry in Development Areas, the provision of factory space. Its overall impact was slight and completion of the programme was hampered by shortages of materials

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8 Section 12 of the Town and Country Planning (Scotland) Act 1947. The system came into force on 1st July 1948. Town and Country Planning (Erection of Industrial Building) Regulations 1948. S.I. 1948 No. 1309.

and administrative delays.[9] In addition two areas, Wrexham and South Lancashire were added to the Schedule in March 1946[10] and in March 1949 the boundaries of the South Wales and the Scottish Development Areas were adjusted and two new areas, Merseyside and part of the Highlands were added.[11]

(ii) Distribution of Industry Act 1950

In the King's Speech of 6th March 1950 the Government announced its intention of introducing legislation "giving further encouragement to the transfer of industrial undertakings to the development areas."[12] The measure was introduced by the President of the Board of Trade, Harold Wilson, as a departmental measure based on the experience of implementing the existing policy. Although unemployment in the areas had increased from 119,800 in June 1949 to 144,800 in February 1950 or 4% of the insured population, a percentage which the President of the Board of Trade accepted was too high, the cydical rather than the structural nature of the recession and the absence of anything other than infrequent criticisms of the Government's policy, offer no support for the alternative view that the measure was a political response to the recession.

The purpose of the Bill was described by the President of the Board of Trade as the provision of finance "to cover the abnormal and exceptional costs of removal to and resettlement in a development area,"

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9 Second Report from the Select Committee on Estimates, 1946-47, The Administration of Development Areas. paras. 44 and 55.

10. Hansard, 5th Sers. H.C. Debs. vol. 420. cols. 1574-80. 18 Mar. 1946.

11. ibid., vol. 463. cols. 1343-82; cols. 138-1408. 30 Mar. 1949.

12 ibid., vol. 472, col. 40.

of works established outside the areas.[13] Clause 3(1), the main clause of the Bill, proposed that the Board of Trade should be empowered with the consent of the Treasury to make grants to industrial undertakings to be established in, or transferred to, a development area in respect of any expenditure or loss arising where they were satisfied that there were "exceptional circumstances which render it expedient." In contrast with section 4 of the Distribution of Industry Act no provision was made for Treasury approval to be given by means of the Development Areas Treasury Advisory Committee. The remaining clauses of the Bill conferred powers which were incidental to the operation of the existing policy, including the powers to compulsorily acquire land on which empty factories stood, create easements,[14] provide facilities by agreement on land not owned by the Board[15] assist housing associations[16] and make payments towards the cost of removing and resettling key workers and their dependants.[17] At the same time the range of extra-statutory inducements was extended to include the provision of preference in government contracts to firms located in the areas on the same "all things being equal" basis as had been adopted during the nineteen thirties and of opportunities to participate at the established competitive price in contracts offered elsewhere.[18]

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13 ibid., vol. 473, col. 1032. 4 Apr. 1950.

14 Clause 1.

15 Clause 2.

16 Clause 3(2).

17 Clause 4.

18 Hansard, loc.cit., cols. 1034-5.

Reacting to the Bill the Times called for a "more discriminating and coherent" policy and reiterated its earlier criticisms of the policy. The exercise of the powers contained in the legislation and in particular of clause 3, it suggested, "may sacrifice the ultimate economic interests of the whole country to the immediate interests of a small part. The political inducements to do this are strong and they bear with equal pressure on both parties."[19] The likelihood of such far reaching consequences were, however, remote as the Economist recognised. The Bill, it concluded, seemed designed to strengthen the Government's powers "in certain marginal cases" but so long as the emphasis in economic policy continued to be placed on exports the Bill was unlikely to amount to more than "good intentions."[20]

Political reaction to the Bill was affected by the results of the General Election and the likelihood of another which induced speakers to attempt to artificially enlarge the distance between the parties. Conservative MPs, for example, placed great emphasis on their opposition to compulsion and belief in the sufficiency of persuasion. The debates, however, revealed little division between the parties over the substance of the actual policy being pursued and the consensus between them was maintained. "I need hardly assure the President of the Board of Trade," observed Oliver Lyttelton, "that its [the Bill's] powers seem to us to be desirable, and that we shall not give him any trouble, except in small matters of detail, during its passage through this House."[21] Few fundamental criticisms of the measure were made, the majority of criticisms focussing on the exclusion of, or the impact

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19 The Times, 27 Apr. 1950.

20 The Economist, 1 Apr. 1950.

21 Hansard, loc.cit., col. 1045.

on, areas outside the schedule. This, the fears expressed that the preferential treatment of firms in the areas would harm firms outside the areas and the assurances sought that the assistance provided under section 3 would not be continuous suggest that experience of full employment was insufficiently long standing to allay fears of excess capacity and unfair competition. "It is very undesirable that damage should be done to other areas, where full employment may be hanging in the balance by undue - I repeat, undue - favours being given to the development areas ... We must be very careful not to damage other established industries."[22]

(iii) Location Policy in Abeyance

In examining location policy during the Conservative Governments' periods of office the Distribution of Industry (Industrial Finance) Act 1958 forms a natural dividing line. Prior to its enactment relatively little emphasis was accorded to the policy whereas its enactment symbolised the beginning of a period of almost continuous concern with the policy. The Act, Thirwall comments, "marks a climacteric in that it concluded a period of apathy and initiated a new era of concerted action."[23]

The consensus between the political parties was unaffected by the election of a Conservative Government in October 1951. "There are," the President of the Board of Trade, Peter Thorneycroft stated "many facets of domestic policy about which great party differences exist. But on the question of development policy and the distribution of

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22 ibid., col. 1041.

23 A.P. Thirwall, Regional Unemployment and Public Policy in Great Britain, 1948-64. (Unpublished Ph.D. thesis. University of Leeds 1967.) p. 125.

industry there are, I believe, no fundamental party differences."[24] The maintenance of a formal commitment to the policy, however, concealed in practice the extent to which its active implementation ceased during this period. After being initially tightened during the recession of 1952 and 1953 the policy was eased and then became "laxly administered in relation to its original objective."[25] "It is broadly true," Odber observes, "that from 1951 to 1958 development area policy was in abeyance."[26]

The low priority attached to location policy during this period its primarily attributable to the reduction in its main impetus, unemployment, and the conception of its function as social and political rather than economic. Political concern with the problem although always prevalent varied directly with the employment prospects of the areas and was at its greatest during the recession of 1952 and 1953. As had been the case before the war political pressure constituted the main formative influence on the policy and the main criterion by which its success was judged. In the absence of specific political concern with the problem the political incentive to pursue its solution was reduced. As the Economist had perceptively pointed out in 1948, "one of the chief weaknesses of the policy, is that it is governed not by any explicit principles about the distribution of industry but largely by the demands of representatives of the developments areas, in Parliament and elsewhere."[27] The development of location policy fell into the mould, which we have observed as characteristic of economic law generally during this period, of short-term, ad hoc adjustments of policy in response

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24 Hansard, 5th Sers. H.C.Debs. vol. 511. col. 2118. 25 Feb. 1953.

25 Thirwall, op.cit., p. 125.

26 A.J. Odber, Regional Policy in Britain, in Area Redevelopment Policies in Britain and the Countries of the Common Market (1965) p. 339.

27 The Economist, 30 Oct. 1948.

to the perceived exigencies of the political situation.

The second factor, the conceptualisation of the function of the policy as social and political rather than economic and thus as subordinate to the latter, became more pronounced during this period both in discussion and administration of the policy. The Select Committee on Estimates reported that "the Board of Trade do not regard their Development Area operations as trading but rather as a social service...," a view with which the Committee agreed.[28] Although a policy based on economic growth was recommended and its adoption considered, recognition of the economic case for a location policy was not widespread during the period.[29]

As regards individual aspects of the implementation of policy between 1951 and 1958, the negative controls exercisable over location followed a pattern of increasing relaxation prior to their effective abandonment. The recession of 1952 prompted the relaxation of building controls in certain areas and this was followed by the announcement of a general easing of the restrictions or the availability of licences in the Budget speech in April 1953.[30] This coincided with the reduction of their effectiveness as a result of the equalisation of demand and supply and no application for a licence was refused after April 1953. The Control of Buildings Operation Order which lapsed in December 1953 was not renewed.[31] Although section 14(4) of the Town and Country Planning Act 1947 was not repealed the effective result in the case of

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28 Second Report from the Select Committee on Estimates. Session 1955-6. Development Areas H.C. 139. 6 Dec. 1955. paras. 41 and 97.

29 Scottish Council (Development and Industry), Report of the Committee on Local Development in Scotland. Edinburgh 1952 discussed Hansard 5 Sers. H.C. Debs. vol. 511. cols. 2105-2220. 25 Feb. 1953.

30 Hansard 5th Sers. H.C. Debs. vol. 514. col. 50. 14 Apr. 1953.

31 Hansard 5th Sers. H.C. Debs. vol. 517. col. 2590. 27 Oct. 1953.

IDCs was as if it had been. "The threat of compulsion gave way to an almost exclusive reliance upon persuasion until, by mid-1956, the application for an Industrial Development Certificate had become, in almost all cases, a mere formality."[32] Basing his conclusion on an analysis of unpublished figures on the regional distribution of certificates Thirwall concludes that the regions with high rates of unemployment fared less well after 1953 than before in terms of the proportion of buildings erected with development certificate approval within them to their average share of the total workforce and total unemployment.[33]

The same pattern of administration was exhibited in relation to the positive instruments of policy. The main expenditure which was on the acquisition of land and the provision of factory space under section 1 of the Act of 1945 and sections 1 and 2 of the Act of 1950, amounting to over £70 millions or over sixty five per cent of the total expenditure under the Acts, declined almost continuously between 1945 and 1960. In November 1951 the Government announced a halt in the building programme in the areas because of the economic situation.[34] Expenditure revived between 1954 and 1955 but the Select Committee on Estimates disapproved of the practice of building factories for industrialists and recommended that extensions should become the principal form of building.[35] Of a total expenditure on loans to estate

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32 P. Self, Cities in Flood, p. 130. quoted in Henderson, op.cit., p.338.

33 Thirwall, op.cit., pp. 169-70. This is consonant with the onset of recovery after 1952 and the coterminous abandonment of building controls.

34 Hansard, 5th Sers. H.C. Debs. vol. 493. col. 200. 7 Nov. 1951.

35 Select Committee on Estates, op.cit., paras. 90-3.

companies under section 2 of the Act of 1945 of £7.7 millions between 1945 and 1960 nearly £5 millions had been spent between 1946 and 1949. Expenditure on the improvement of basic services under section 3 of the Act of 1945 virtually ceased after the issue of Circular 54/52, Economies in Local Government Services, which stated that no further grants would be made to local authorities. Although the Treasury was empowered to make grants to undertakings under section 4 of the Act of 1945 none were made between 1945 and 1955 and the main form of financial assistance to firms was by way of loan under the same section. Expenditure on the provision of assistance by way of loan under section 4 nearly doubled under the Conservative Governments, from £2.4 millions spent between 1945 and 1951 to £4.6 millions between 1951 and 1958, but in terms of the overall expenditure the level was insignificant, representing less than five per cent of the total spent in the areas between 1945 and 1960. The strictness with which the criteria determining the availability of loans were interpreted and the rate of interest charged combined to reduce their attractiveness as inducements, only 250 applications being received between 1945 and 1955. From this it was assumed that they did not constitute a strong attraction to industrialists and their discontinuation was recommended by the Select Committee on Estimates.[36]

Only one area, North East Lancashire which was dependent on the weaving section of the textile industry, was scheduled during this period.[37] At the same time in response to the recession the President

36 Second Report of the Select Committee, op.cit., para. 80.

37 Hansard. 5th Sers. H.C. Debs. vol. 511. col. 2221. 25 Feb. 1953.

of the Board of Trade, Peter Thorneycroft, announced the Government's intention of relaxing the restrictions on new building in certain areas and of asking the Development Commission to consider requests for assistance with the establishment of small factories in the Buckie and Peterhead area of North East Scotland.[38] The decision that the development area procedure was inappropriate in the case of Buckie and Peterhead and the refusal of the President of the Board of Trade to list the areas in which building controls would be relaxed constituted in effect an attempt to insulate the administrative process from the political process. Section 7 of the Distribution of Industry Act 1945 required the consent of local authorities within an area and an affirmative resolution of both Houses before the Board of Trade could remove it from the schedule, thereby effectively preventing their removal. The announcement of a review of the schedule with a view to removing areas[39] met with immediate opposition[40] and on 27th May 1954 it was announced that no areas would be removed.[41] "Under the procedure laid down for the 45 Act it was almost impossible to remove any area so we put in at one end but did not take off at the other."[42] The form which assistance took was thus conditioned by the political difficulties associated with the administration of the existing system. If a list of areas was published "I should merely be pressed constantly to include others."[43]

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38 Hansard, 5th Sers. H.C. Debs. vol. 505. cols. 1927-8. 29 Oct. 1952.

39 ibid., col. 1928.

40 See e.g. ibid. col. 129 and vol. 507, col. 162. 5 Nov. 1952. Hugh Dalton.

41 Hansard. 5th Sers. H.C. Debs. vol. 528. col. 595. H. Strauss.

42 Seventh Report of the Select Committee on Estimates. Session 1962-3. Administration of the Local Employment Act. Minutes of Evidence Q.54.

43 Hansard. 5th Sers. H.C. Debs. vol. 505. col. 2090. 30 Oct. 1952. Peter Thorneycroft.

Although it was possible to overcome the political difficulties in respect of the provision of future assistance by the choice of the form which assistance should take, the same opportunity was not available in respect of those areas which were already scheduled and which it was politically impossible to remove from the schedule. The Select Committee on Estimates reporting in 1955 criticised the schedule to the Act on the grounds that "there are indications that the size and boundaries of the present Development Areas have been preserved against future contingencies for too long, and are now out of date."[44] The desired result was achieved in the case of those areas not by their formal de jure removal from the schedule but by their administrative de facto "de-scheduling", an expedient the adoption of which was only gradually admitted by the Government. As the Parliamentary Secretary to the Board of Trade explained during the second reading of the Local Employment Bill 1960, "Ministers have had recourse to what amounts to administrative or de-facto de-scheduling. That is not abandoning the powers but making no attempt to exercise them. That is what we have been doing."[45] In addition, following the Report of the Select Committee the President of the Board of Trade announced in June 1956 that "in view of the need for the strictest economy in Government expenditure, it has been necessary to defer consideration of all proposals for the provision of new government-financed factories or extensions under the Distribution of Industry Act save in a very few cases of special importance and urgency."[46] The Economist in accordance with its social conception of

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44 Select Committee on Estimates, op.cit., paras. 88-9.

45 Hansard 5th Sers. H.C. Debs. vol. 613. col. 149. 9 Nov. 1959.

46 Hansard. 5th Sers. H.C. Debs. vol. 553. col. 864. 5 June 1956.

the policy greeted the decision as "little more than a timely recognition of changed conditions."[47] Its true significance in terms of the Government's commitment to a distribution of industry policy was made clear by Lord Bisland in the House of Lords in March 1957. "A major Act of Parliament has been rendered practically inoperative by this announcement without any declaration of policy regarding its replacement."[48]

(iv) The Distribution of Industry (Industrial Finance) Act 1958

The Distribution of Industry (Industrial Finance) Act 1958 was a direct response to the recession and growing unemployment which affected the areas in 1957 and 1958. Of the enactments passed after 1945 in relation to the location of industry it provides the clearest example of short-term, extemporising crisis management. The growing unemployment in the areas stemmed partly from a slump in the basic industries on which as the Select Committee on Estimates had recognised the areas were still dependent[49] and partly from the recession induced by the Government's policy of monetary disinflation. This second source introduced an apparent element of contradition into the Government's policy in that it was attempting to increase unemployment to a level sufficiently high to remove inflation while purporting through the Bill to relieve the problem of unemployment in the areas. This contradiction was inconsistently dealt with by Ministers who either denied that there was a problem of lack of demand or attempted to resolve it by describing the Bill as "selective reflation."[50] This inconsistency is indicative

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47 The Economist, 9 June 1956.

48 Hansard 5th Sers. H.L. Debs. vol. 202. col. 802. 27 Mar. 1957.

49 Second Report of the Select Committee, op.cit., para. 87.

50. infra.,

of the haste with which the Bill was conceived when the level of unemployment in the areas induced by the Government's policy was no longer regarded as politically acceptable.

The Bill was foreshadowed by the Chancellor of the Exchequer in his budget speech. He announced that amending legislation would be introduced and that restrictions on new capital issues would be relaxed in favour of projects in the areas.[51] The Bill was consonant with the general Conservative perspective in that no attempt was made to coerce industry, the emphasis being on the expansion of the existing policy of inducements. Within that context there was a shift in the form of inducement from the provision of factory space to the provision of financial assistance by way of grants and loans to undertakings whether industrial or not inside and outside the scheduled areas.

Two features of the Bill merit further examination. Firstly its form was influenced by the political difficulties experienced in attempting to remove areas from the schedule under the Distribution of Industry Act 1945 and secondly it continued the emphasis which the existing policy had acquired as a result of the practice of administrative de-scheduling, of concentrating on relieving small pockets of unemployment. Both features were related to each other by Ministers in explaining the provisions of the Bill. The Minister of Labour and National Service, Iain Macleod, described the provisions of the Act of 1945 as "too cumbersome" to deal with a problem which was essentially different from that envisaged by that Act.[52] "The original purpose of that Act, which was to bring special help to large areas where there was heavy and persistent unemployment,

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51 Hansard, 5th Sers. H.C. Debs. vol. 586. col. 57. 15 Apr. 1958.

52 Hansard, 5th Sers. H.C. Debs. vol. 587. col. 392. 30 Apr. 1958.

has to a large extent been fulfilled ... The problems with which we have to deal today are, therefore, different. They are quite local and they are due to such things as technical change or the reduction in defence orders and not a lack of demand in the economy as a whole ... The most sensible thing to have done would have been to scrap the scheduled areas and start again with new and flexible powers to deal with the conditions of our own time; but once an area has been given special privileges, it does not like to lose them. however prosperous it may be. Having observed the strength of local feelings we have given up the idea of formal descheduling."[53] The political difficulties of removing areas from the schedule was avoided in the Bill by making assistance available not on the basis of scheduled areas as in the Act of 1946 but on the basis of localities in which in the opinion of the Board of Trade "a high rate of unemployment exists and is likely to persist." Parliamentary control was not therefore exercisable over the exercise of the discretion conferred upon the Board of Trade.

The second factor, the concentration of assistance on those areas deemed to be in greatest need, "this perverse philosophy",[54] was less significant than at first it might have appeared in that it complemented the existing concentration of assistance within the scheduled areas. "The change was in practice no more than an addition to thelist of favoured areas."[55] It meant, however, that unemployment became more exclusively the main criterion of policy, a change which was reflected in the Bill. Whereas the provision of financial assistance under section 4 of the Act of

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53 Hansard, 5th Sers. H.C. Debs. vol. 586. cols. 192-3. 16 Apr. 1958.

54 Odber, op.cit., p. 386.

55 Loasby, op.cit., p. 41.

1945 had been dependent on the Board of Trade's certification that the undertaking complied with the requirements of the proper distribution of industry no equivalent requirement was contained in the Bill. Overall, Thirwall concludes, the Bill "represented a retreat from the concept advocated outside government circles, of striving for industrial balance between broad regions of the country and also a departure from the broad aspirations of the Barlow Commission."[56]

The second reading debate on the Bill was marked by a motion opposing the Bill tabled by three Conservative MPs led by Viscount Hichingbrooke who in an extravagant speech criticised the Bill as contradicting the Government's policy of disinflation,[57] a point supported by William Hamilton Labour MP for West Fife. "There is an apparent contradition between the policy adumbrated in the Bill and policy statements made by the Government over the past few months ... Here we have a situation in which the Chancellor in his budget statement, and the previous Chancellor last September, said by policy and by statement that unemployment will increase and must increase if inflation is to be curbed. Yet the Government bring along this Bill and say "All right, we now have measles but we are going to try to rub out the spots."[58] More generally Labour MPs criticised the form which inducements took, preferring the provision of factory space to the provision of financial assistance, and the failure of the Government to vigorously and continuously implement the Act of 1945.

More significantly some speakers raised for the first time as an issue between the parties the question of the function served by location policy in a reassessment of the thesis which had been advanced by

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56 Thirwall, op.cit., pp. 133-4.

57. Hansard, 5th Sers. H.C. Debs. vol. 587. col. 428. 30 Apr. 1958.

58 ibid., cols. 460-1.

Conservative and Labour governments that the problem could only be overcome by limiting the availability of assistance to those areas in greatest need. In a development which paralleled emerging disaffection with stop-go policies the practice of location policy was criticised as ignoring the economic case for it, an argument which brought its discussion since 1944 full circle. William Hamilton neatly summarised the alternatives. "Is the criterion to be the percentage of unemployment or is it to be the future economic prosperity of the country? In other words, are we to concentrate on areas which are declining or on areas which are developing."[59]

Unemployment in the areas continued to worsen before reaching its peak in January 1959. In an attempt to reverse the trend the Government intensified its use of the instruments available to it. The Distribution of Industry (Industrial Finance) Act did not, however, figure prominently amongst these. Only nineteen applications were ever received under the Act of which four were granted.[60] Moreover despite the emphasis placed on the need for flexibility it soon became clear that the sole criterion applied by the Board of Trade in determining the eligibility of an area for assistance was whether or not it had suffered four per cent unemployment for a period of twelve months or more.[61]

(v) The Local Employment Act 1960

The complexity of the statutory system for the provision of assistance created by the ad hoc amendment of the Distribution of Industry Act 1945

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59 ibid., col. 459.

60 Hansard, 5th Sers. H.C. Debs. vol. 621. cols. 33-4. 5 Apr. 1960.

61 Hansard, 5th Sers. H.C. Debs. vol. 595. col. 539.

whereby assistance was made available on the basis of development areas and development districts established a case for its amendment. The statutory machinery, The Times commented, was "too cumbersome and too complex."[62] The promise of the Conservative Government as part of its election programme to introduce amending legislation was not, however, based solely on the case for administrative rationalisation but also stemmed from its perceived vulnerability over its administration of the policy. The evidence suggests that the Government's policy on cotton and the promise to introduce new legislation on local unemployment were conceived of as part of a concerted response to its electoral weaknesses.[63]

The Conservative Party manifesto, The Next Five Years, pledged that "our first major Bill in the next Parliament will be one to remodel and strengthen our powers for coping with local unemployment." The President of the Board of Trade, Sir David Eccles, addressing a rally at Heywood proclaimed that the Government's powers ought to be "stronger, swifter and simpler in action." Existing legislation would be replaced by "a comprehensive statute that would enable local unemployment to be dealt with effectively by the Government wherever it occured."[64] "By foreshadowing an actual Bill," the Times suggested, "the Conservatives may have stolen a slight march on their opponents in a field where they could have been politically vulnerable."[65]

The Local Employment Act 1960 replaced the Government's existing powers under the Distribution of Industry Acts 1945 and 1950 and the

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62 The Times, 16 Sept. 1959.

63 Harris, op.cit., p. 214. Macmillan, Riding the Storm, 1956-9. op.cit. p. 743 and supra.,

64 The Times, 16 Sept. 1959.

65 ibid.,

Distribution of Industry (Industrial Finance) Act 1958. It continued the existing policy of concentrating assistance on small areas of localised unemployment. Assistance was to be made available on the basis of "development districts" which were defined as localities "in which, in the opinion of the Board of Trade ... a high rate of unemployment exists, or is to be expected ... and is likely to persist,..."[66] In the case of industrial development certificates the Act provided that the question of whether or not a proposed development was consonant with the proper distribution of industry was to be decided with particular regard to the employment needs of development districts.[67] The policy, Odber wrote, "is still a narrowly defined, geographically narrow based, short-run affair, which lacks an attempt to look beyond the immediate problems of small localities to the longer-run, more fundamental problems of the industrial structure, and possible future trends of regions."[68]

Apart from the omission of any reference to the proper distribution of industry in the Local Employment Act 1960 the main differences between it and the Distribution of Industry Act 1945 were of an administrative nature. Despite the claims which had been made for it the Act was essentially "a piece of administrative tidying up."[69] Of these the most significant were in relation to the provisions for the determination of the areas in which assistance would be made available. Two purposes were evident in these provisions; a desire, firstly, to avoid the political obstacles to the removal of areas from the schedule which had

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66 Section 1(1). The areas were originally called "unemployment localities" but this was changed during the Committee Stage of the Bill. Hansard, 5th Sers. H.C. Debs. vol. 616. cols. 1009-10. 3 Feb. 1960.

67 Section 17.

68 Odber, op.cit., p. 356.

69 The Economist, 31 Oct. 1959.

emerged under the Distribution of Industry Act 1945 and secondly, a desire to reduce the proportion of the country within which assistance would be available.

As regards the first of these purposes a direct link may be established between the Act of 1945 and the Act of 1960 which had as its basis a desire to insulate the administrative process from the political process where the impact of the latter on the former was deemed unacceptable, firstly through the device of administrative de-scheduling and then through the expedient adopted in the Act of 1958, and followed as a precedent in the Act of 1960, of making no provision for consultation with local authorities or for parliamentary approval or disapproval of the areas in which assistance would be available.[70] "The new Bill," the Economist commented, "will achieve what no President of the Board of Trade has previously had the courage to do - to take an area out of the list when it no longer needs special help."[71]

The second purpose, the reduction of the areas within which assistance was available, represented the apotheosis of the social conception of the policy as involving essentially the relief of unemployment. It stemmed from the belief that only in this way could industry be steered to those areas where it was most needed "If we spread the 'butter' in the

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70 Defending the provision during the Committee Stage of the Bill, the Minister of State, Frederick Erroll claimed that the experience of the Act of 1958 enabled the Government to "confidently submit to the Committee our case for continuing the practice in the new Bill." Hansard, 5th Sers. H.C. Debs. vol. 615. col. 258. 8 Dec. 1959.

71 The Economist, 31 Oct. 1959.

form of assistance available too far, there will be not enough to help where help is really needed," claimed the President of the Board of Trade, Reginald Maudling.[72] Reducing the availability of assistance to those areas which were worst affected would compel industry to go to them. The purpose was achieved by the adoption as the criterion for the provision of assistance of an unemployment rate of 4.5 per cent of the insured population for at least twelve months, a formula which reduced the proportion of the insured population covered from 20 to 12 per cent.[73]

As has been pointed out the powers conferred by the Local Employment Act 1960 did not differ markedly from those possessed under the repealed legislation. The system of industrial development certificates was retained and extended to cover a loophole which had emerged, "changes of use."[74] As regards the provisions of inducements the powers were retained to provide factories or sites for factories,[75] acquire and clear derelict land,[76] assist the removal and resettlement of key workers[77] and improve basic services.[78] The power to make grants and loans was transferred from the Treasury to the Board of Trade and was subject to two restrictions. Assistance could only be provided on the recommendation of a Board of Trade Advisory Committee (BOTAC) which was required to act on lines agreed with the Treasury.[79] Although the provision of assistance was still subject to the requirement that the undertaking have ultimately the prospect

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72 Hansard 5th Sers. H.C. Debs. vol. 613. col. 45

73 Seventh Report from the Select Committee on Estimates. Q 55-6.

74 Section 18.

75 Section 2.

76 Section 5.

77 Section 6.

78 Section 7.

79 Section 4(2).

of success on an economic basis, the condition that assistance be unobtainable through other sources was removed as excessively restrictive. The only new inducements contained in the Act were buildings grants provided under section 3. The intention underlying their introduction was that firms building their own factories should not be placed in a worse position than a firm renting premises from the Board of Trade. Grants were payable at a rate amounting to 85 per cent of the difference between the cost of building a factory and its value once completed, a formula which was intended to increase the inducements in direct proportion to the unattractiveness of the area, but the complexity of the formula and their discretionary nature combined to reduce the strength of the inducement. Finally the industrial estate companies which had been located in each Development Area were, by reason of the abolition of the areas, replaced by three Industrial Estate Management Corporations located in England, Scotland and Wales respectively.[80]

The second reading debate on the Bill was marked by the emphasis placed by MPs, at the expense of any wider view of the problem, on the problems of their particular constituencies. Conservative speakers, apart from Viscount Hichingbrooke who vigorously attacked the subvention of industry proposed, generally defended the Bill as a consensual response to a social problem. "On these matters we cannot be guided by purely economic doctrine. That is why we have this legislation."[81] Sir Robert Cary described it as "a limited Bill. In the sense that it does not go to much on party lines, it is a national Bill. It is a Bill of prevention and inducement for a social need for the moment."[82]

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80 Section 8.

81 Hansard, 5th Sers. H.C. Debs. vol. 613. col. 33. 9 Nov. 1959.

82 ibid., cols. 86-7.

Labour MPs while compelled to welcome the Bill as a positive measure to deal with the problem were critical of its restrictive focus and the Government's failure to make sufficient use of its existing powers. The concentration on localised unemployment to the exclusion of other dimensions of the problem including, the proper distribution of industry, the parallel problem of urban congestion and attendant features of the areas such as migration, was attacked as retrogressive. The difference between the Bill and the Distribution of Industry Act 1945 was one "not merely of words, but of philosophy and policy."[83] The Government, Sidney Silverman argued, were approaching the problem "not by taking new powers and developing those which they had before, but by throwing away as a policy the planning of an area."[84] The President of the Board of Trade had taken "an alarmingly narrow view of the aims, method and value of distribution of industry policy."[85] While there was some accuracy in Robert Carr's comment that some of the criticisms made by Labour MPs were based on "a purely emotional dislike of change - a longing to cling to past methods and a belief that past conditions still exist," his own view that the legislation was compelled by the contradiction between a generally high level of prosperity and the regional concentration of persistent unemployment offered no suggestion of any economic conception of the policy's function.[86]

Having been read for a second time without division[87] the Bill's Committee stage was taken in a committee of the whole House. Emphasis was concentrated on the exclusion of any regard to the proper distribution

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83 Col. 49. James Griffiths.

84 Col. 79.

85 Col. 137. Douglas Jay.

86 Col. 128.

87 Hansard, loc.cit., col. 330. 10 Nov. 1959.

of industry and on the basis upon which assistance would be made available. The President of the Board of Trade defended the provision of assistance on the basis of those localities in the greatest need as the only way in which the problem would be solved.[88] The conflicting approaches to the problem were captured by Douglas Jay's reply. "If [the President] has not yet understood that this is an economic and not a social argument he has not yet begun to grasp the subject. Of course it is the business of a Government in their development policy to see that everyone who can usefully work is usefully employed. That is the only way in which we can get maximum production in the country."[89] At the same time as the Bill received its third reading, the most visible success of location policy until then was achieved, the announcement by the major motor manufacturers of the establishment of plants in Merseyside and Scotland.[90] Having passed through its legislative stages in the House of Lords the Bill received the Royal Assent on 22nd March.

The first list of development districts was provided in answer to a written question on 9th February.[91] In an "unbecoming and indecorous" debate on a supply day motion criticising the failure of the Government "to include many places for which the special powers under the Local Employment Bill are needed,"[92] Labour MPs pressed the claims of their individual constituencies. The President of the Board of Trade defended the reduction of the area eligible for assistance from 20 to 12 per cent of the insured population on the grounds that since the amount of employment was

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88 Hansard, 5th Sers. H.C. Debs. vol. 614. col. 1230. 2 Dec. 1959.

89 ibid., col. 1237.

90 The Economist, 23 Jan. and 6 Feb. 1960.

91 Hansard, 5th Sers. H.C. Debs. vol. 617. cols. 29-30.

92 Hansard, 5th Sers. H.C. Debs. vol. 618. col. 207.

limited it must firstly be directed to those areas "which are worst hit ... By extending the list of places one does not extend the number of jobs. One merely extends the number of places over which the jobs will be spread."[93]

Unemployment, the main stimulus to political concern with the areas, lessened under the impact of the vigorous pursuit of the policy and bouyant demand and by October Maudling was able to announce in adding two areas threatened by pit closures to the list that "in view of the encouraging progress that is being achieved there are a number of places which I shall be able to de-list in the near future if applications for assistance at present under consideration succeed." In addition as an interim measure prior to formal removal from the list he announced that applications for assistance from six districts would no longer be considered (stop-listing).[94] Between February 1961 and May 1962 a further 25 districts were stop-listed, 10 were removed and 7 added.[95] The proportion of the insured population covered decreased from 12.8 per cent in April 1960 to 7.5 per cent in June 1962.

(vi) A policy of regional economic development

Between the autumn of 1962 and the winter of 1963 the Government gradually abandoned its social conception of location policy and through a series of adjustments effectively transformed it into a policy of regional economic development. The impetus for this change stemmed from

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93 ibid., col. 219.

94 Hansard, 5th Sers. H.C. Debs. vol. 627. col. 260. 25 Oct. 1960. The sole difference between de-listed areas and stop-listed areas was that applications for IDCs in the latter were still given preferential treatment.

95 Hansard, 5th Sers. H.C. Debs. vol. 633. col.168. 3 Feb. 1961, vol. 643. col. 55. 29 June 1961, vol. 644. cols. 63-4. 13 Jul. 1961, vol. 651. col. 62. 14 Dec. 1961 and vol. 659. cols. 18-20. 7 May 1962.

two sources, the one diffuse in its effect the other more immediate. Firstly disatisfaction with stop-go policies and acceptance of economic growth as an objective of economic policy gave rise to concern with the role of location policy in economic growth. Concern with the corollary, the impact of a policy of economic growth on the location of industry, was also increased by the conclusion of the Ministry of Housing, Local Government and Welsh Affairs after the 1961 Census that the estimation of future needs for towns and services could only take place on the basis of an estimation of the likely development of industry and employment.[96] This concern was made more pressing by the re-emergence in the areas of unemployment on the most serious scale since the war. The North East of England was particularly badly hit. This increased the political pressure on the Government to intervene. As the Times pointed out with uncharacteristic candour, "a point often overlooked is that a stated policy of encouraging migration from the less favoured regions would probably be political suicide for any Government. They are bound therefore to make sympathetic noises, and announce measures of support. The question is how sincere they should be. Pursuing regional redevelopment cheaply and without conviction in the hope that migration would solve the problem by the back door while appearances were saved, might turn out to be more costly in the long run than a full blooded effort to inject into the north a new capacity to grow unaided."[97] As had been recognised in 1934 the question was not whether to intervene, but rather what form intervention should take.

Criticism of the Government stemmed in the main from, but was not confined to, the Opposition. The Toothil Committee had implicitly

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96 The Times, 22 Oct. 1963.

97 The Times, 22 Oct. 1963.

criticised the existing social conception of the policy in 1961 by emphasising the economic and in particular the growth aspects of a policy. The rapidity with which districts were liable to be removed from the list or stop-listed was widely criticised as ignoring the need for continuity in policy and as a powerful deterrent to firms contemplating locating in the areas.[98] In a speech in the House of Lords on 26 Nov. 1962 the former President of the Board of Trade, Lord Eccles, renounced the basis of the existing policy for which he had been responsible. "I have a confession to make. I have changed my mind since I had in the Board of Trade to do with the Local Employment Bill. I used then to think that we should develop a kind of rescue service which would deal with all the persistent patches of local unemployment, large or small, wherever they occurred. I now see that the time has passed for encouraging minor developments which put a district more or less at the mercy of one method of production, or the demand for one kind of goods. Technical change has become too rapid and too rough for us to take risks of that kind with small communities. We need something more radical and something more long-sighted."[99] The existence of "Two Nations" became a subject of popular inquiry and concern.[1] "'You have never had it so good,' said Mr. Macmillan, Now again there is talk of two nations. The haves and the have nots, the privileged and the underprivileged, the rich and the poor, the South and the North."[2]

There were two aspects to the Government's response to the widespread criticism which it faced. It intensified its use of the

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98 Seventh Report of the Estimates Committee, Administration of the Local Employment Act 1960. Session 1962-3. H.C. 229.

99 Hansard, 5th Sers. H.L. Debs. vol. 244. col.

1 See e.g. The Times 10, 11 and 12 Dec. 1962.

2 The Daily Express, 28 Nov. 1962.

existing instruments of policy and at the same time the basis of its policy shifted perceptibly from the simple relief of unemployment towards its opponent's policy of regional economic development.

As regards the first factor, the Government instituted an advance factory building programme, restricted the availability of IDCs, placed contracts and approved public works in the areas. Expenditure was increased "to the extent of taking substantial risks."[3] It also introduced innovations. In a replication of the Colonial Development Act 1929 loans of up to £10 millions were made available to developing countries placing orders with industries in the areas with excess capacity. In January 1963 Lord Hailsham assumed special responsibility for advising the Government on the industrial and employment problems of the North East of England. The parallel with the appointment of investigators in the depressed areas in 1934 was striking. "We have been arguing backwards and forwards about a 'Special Commissioner' or some such character to help N.E. Coast, where quite a radical approach seems now to be required. After a lot of thought, I decided on a Minister (not a Ministry) and on a Minister of first rank (not an Under-Secretary or a Minister of State as had been proposed and generally agreed."[4] Although Lord Hailsham called for "a radical experiment in social engineering" to assist the areas,[5] his appointment did not allay the criticisms of the Government. The only likely effect of making a Minister responsible without the power to discharge that responsibility would be to diminish the responsibility of the Ministers with the power,

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3 The Chancellor of the Exchequer, Reginal Maudling at the Young Conservatives Conference. The Times, 18 Feb. 1963.

4 H. Macmillan, At the End of the Day. 1961-63 (1973) p. 390.

5 Hansard, 5th Sers. H.L. Debs. vol. 246. col. 1274 19 Feb. 1963.

commented the Economist. The Government had not gone "the whole hog and appointed a separate co-ordinating minister with a senior staff to ride herd on the existing departments."[6]

The second factor was increasingly evident in the speeches of Ministers. In his budget speech the Chancellor of the Exchequer, who as President of the Board of Trade had resolutely defended the restriction of assistance to those areas which were worst affected, stated that "it will not be possible to run this country at its full potential on a steady basis so long as full employment in Scotland and the North East and Ulster mean overfull employment and serious shortages of labour in the Midlands and the South. The need for further progress with the problems of regional unemployment is, therefore, both social and economic..."[7]

(vii) The Local Employment Act 1963

As part of further measures of assistance the Chancellor of the Exchequer announced that grants payable to local authorities for site clearance would be increased from 50 to 85 per cent,[8] a further 11 advance factories would be established, industrial training measures would be introduced to increase labour mobility and it would assist the establishment of a pulp and paper mill at Fort William.[9]

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6 The Economist, 12 Jan. 1963.

7 Hansard, 5th Sers. H.C. Debs. vol. 675. col. 479. 3 Apr. 1963.

8 Only for tenders approved in the next 9 months indicating the continued primacy of short-term factors.

9. Fort William Pulp and Paper Mills Act 1963. The Act authorised the Board of Trade to make loans of up to £10 millions and grants to defray interest charges of up to £1.3 millions to Wiggins Teape and Company for the cost of constructing and equipping pulp and paper mills in Fort William. The Government argued that the Act was necessitated by the fact that insufficient employment would be created by the project to qualify for assistance under the Local Employment Act 1960, section 1(3) of which required the Board in exercising its powers to have regard to the relationship between the expenditure involved and the employment likely to be created.

The Government also proposed simplifying the existing system of financial inducements. By increasing their calculability it was envisaged that their attractiveness would be increased. The existing complex method of calculating building grants would be replaced by the provision of a fixed grant in development districts of 25 per cent of the cost of building and in addition grants of 10 per cent of the cost of equipping firms in development districts with plant and machinery would be made available. A new form of discriminatory assistance, "accelerated depreciation," was also made available which enabled manufacturing industry in development districts to amortize investment in plant and machinery against profits at whatever rate it chose, amounting in effect to an interest free loan.[10] While welcoming the measures the Economist criticised the failure of the Government to examine the compatibility of the existing framework of assistance with the apparent acceptance of the new objective. If the measures were to work "the designated areas under the Local Employment Act will have to be more widely drawn than at present. The present system of designating them in penny packets, so that the areas favoured are often the most unwelcome aspects to which nobody wants to go, works directly against the desirable principle of building up economic growth points in Scotland, the North-East and North-West."[11]

During the second reading debate on the Bill the Opposition questioned the necessity of the Bill and criticised the failure of the Government to act sooner. "It is deplorable that it should have needed unemployment

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10 Finance Act 1963, section 38.

11 The Economist, 6 Apr. 1963.

at over 900,000 and a great deal of agitation in the House and elsewhere to extract even this meagre death-bed repentance from the Government."[12] The debate also raised the question of the extent of the Government's commitment to a policy based on economic growth. Replying to the debate the President of the Board of Trade announced his opposition to a regional approach on the grounds that it prevented assistance being concentrated where it was needed most, a proposition which suggested that the Government's conversion was to some extent more apparent than real and that the case for an approach based on economic growth was not fully understood.[13] "The weakness of government policy, as expressed in legislation to deal with regional unemployment," argued Emlyn Hooson, "is that it is a policy designed to provide palliatives based on expediency and does not attempt to conform to a distribution of population and a distribution of employment opportunities policy."[14]

A policy based on growth points was advocated increasingly. The Report of the National Economic Development Council, Conditions Favourable to Faster Growth, published in April stated that the "ultimate aim of any regional development policy should be to reach as quickly as possible the stage of self-sustaining growth."[15] A policy based on growth points would not only contribute towards national expansion but would also be more likely to assist backward areas than one based on steering unemployment to them. The Select Committee on Estimates criticised the rapidity with which areas had been removed, the

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12 Hansard, 5th Sers. H.C. Debs. vol. 676. col. 1212. 1 May 1963.

13 ibid., cols. 1262-3.

14 ibid., col. 1239.

15 p. 14.

administration of the policy and concluded that "the Local Employment Act 1960 has at best had a limited impact upon Development Districts at a time when the general level of business activity has been low."[16] In June the Federation of British Industries endorsed the NEDC's advocacy of a policy of growth points.[17]

Despite the doubts about the strength of its conversion to a policy of regional economic development the Government appeared to follow the trend of opinion. In August the Prime Minister announced that proposals would be announced for the North East and Scotland which would be based on a policy of growth points.[18] His successor, Alec Douglas-Home exphasised the conversion with the appointment of Edward Heath as Secretary of State for Industry, Trade and Regional Development, who Gardyne suggests saw a policy of regional development as a means of wresting the political initiative back from the Labour Party.[19] As with the Local Employment Act 1960, the impetus for the policy seemed to stem from the Government's perceived electoral weaknesses. "With the regional surveys coming out and the National Economic Development Council spreading its wings, the time seems ripe for a bold new policy towards Britain's declining regions. The attraction for the new Conservatives of setting such a policy under way before the general election would seem to be considerable."[20]

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16 Seventh Report of the Select Committee on Estimates, para. 36.

17 "The Regional Problem: A Study of the Areas of High Unemployment." The Times, 6 June 1963.

18 Hansard 5th Sers. H.C. Debs. vol. 682. col. 647. 1 Aug. 1963.

19 Gardyne, op.cit., p. 92.

20 The Times, 22 Oct. 1963.

The introduction of "plans for comprehensive regional development" in Scotland and the North East of England was announced in the Queen's Speech.[21] It was, the Sectretary of State said in the debate on the Address "important that from the outset we should recognise that the purpose is not limited to helping particular regions, but to helping the growth and well-being of the country as a whole ... Some people see regional development in social terms. I want to be frank here ... I think that they are wrong. The real life of a region is bound to rest upon its economy."[22] The Government's conversion to a policy of regional planning was made explicit in two White Papers, "The North East. A programme for regional development and growth",[23] and "Scotland. A programme for development and growth",[24] which declared its intention of concentrating assistance on designated growth areas.[25]

How profound was the change signified by the publication of the White Papers? Douglas Jay described them as representing "the complete abandonment of the 1960 Act and a return albeit in an arbitrary, unbalanced and indefensible way to the 45 Act concept of development areas."[26] They did not, however, amount to a "coherent plan, or even a coherent policy. It is just the amalgamation, in a rather clumsy fashion, of two quite separately prepared projects, which do not add up to even a regional plan, let alone a national plan."[27] They implied,

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21 Hansard 5th Sers. H.C. Debs. vol. 684. col. 6. 12 Nov. 1963.

22 ibid., col. 336. 14 Nov. 1963.

23 Cmnd. 2206.

24 Cmnd. 2188.

25 A White Paper, South East England, Cmnd. 2308, dealt with the other side of the regional problem, the congestion of the South East.

26 Hansard, 5th Sers. H.C. Debs. Vol. 685. col. 1005. 3 Dec.1963.

27 ibid., col. 1007.

Wright and Young conclude, "a shift away from the short to the medium and long-terms and a considerate of anticipated future problems as well as those currently exercising the minds of ministers and senior administrators."[28] They were not, however, accompanied by a change in administrative attitudes. "The traditional ad hoc, piecemeal approach with its associated "crisis mentality" persisted in the handling of regional problems. Preoccupation with the politically urgent or critical issue made it difficult to give adequate time or thought to future problems ... Ministers continued to be occupied with the short-term urgent problems by which their effectiveness as ministers is still mainly judged."[29] No where was this made more evident that in the decision to attach greater priority to the abolition of resale price maintenance on the grounds that its results would be more immediate than those of a policy of regional economic development.[30]

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28 Regional Planning In Britain, in Hayward and Watson, op.cit., pp. 247-8.

29 ibid.

30 Gardyne, op.cit., p. 96.

16. CONCLUSIONS

Introduction

For the purposes of the present research we defined economic law as constituting "the totality of legal powers, processes and rules designed or adapted to facilitate the achievement of national economic objectives." In our examination of that law we have had two purposes; firstly the provision of a coherent and systematic account of the development of economic law in the United Kingdom between 1919 and 1964 and secondly the explanation of that development. In the fulfillment of the latter purpose our focus has been on relationships between economic circumstances, political perspectives and the form and content of economic law.

(i) The development of economic law between 1919 and 1964

The inter-war period was marked by a reorientation of government towards the economy involving the effective abandonment of the former orthodoxies which had governed the relationship between them. The result which marked the inception of economic law in the United Kingdom was the assumption by government of a measure of responsibility for the success of commerce, industry and finance. Among the new economic functions and responsibilities assumed by Government and reflected in substantive economic law were the assistance of exports including capital exports and the subvention and reorganisation of industry. The effect generally of its intervention in industry was to sanction the abrogation of competition and the entrenchment of monopoly. The most significant intervention of the period was, however, the abandonment of the Gold Standard[1] and the imposition of protection[2]

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1 Gold Standard (Amendment) Act 1931.

2 Import Duties Act 1932.

in the aftermath of the crisis of the autumn of 1931 which together provided the essential framework for the post-war managed economy.

This marked expansion in the functions of government in relation to the economy culminated during the second world war when the Government through the evolution of Keynesian techniques of demand management and the operation of physical controls assumed responsibility for all aspects of economic decision-making. Although the war represents the high water mark of government intervention in the economy the practice of taking wider powers, including the power to make subordinate legislation, exemplified by the Emergency Powers (Defence) Act 1939 meant that there was no corresponding increase in economic legislation concerned with particular sectors of economic activity of the type which we had observed as characteristic of the inter-war period.

During the immediate post-war period these exceptional powers were continued and extended by the Supplies and Services (Transistional Powers) Act 1945, the Supplies and Services (Extended Purposes) Act 1947 and the Supplies and Services (Defence Purposes) Act 1951 and they played a significant part in effecting the transformation to a peacetime economy. The continuation and extension of these powers we noted constituted a prima facie significant shift in the legislative framework for the control of the economy but we concluded it was not a permanent one. Two of the Acts (the Acts of 1945 and 1950) were entirely related to exceptional circumstances while the third exercised no influence on the general trend towards the relaxation and abandonment of the physical controls exerciseable over the economy which accompanied the Government's disengagement from planning and the reduction if its role in relation to the economy to one of economic management. This was confirmed by the resumption of the normal pattern in economic legislation of enactments which were of limited scope and application.

Substantively economic law concerned the balance of payments, the value of sterling, the control of inflation, the control of investment, overseas development, the public sector, the organisation of private industry (including the problems of particular industries) and the promotion of competition. As befitted adherents of the "middle way" the substantive concerns of Conservative governments as reflected in economic law were largely unchanged from those of their Labour predecessors. Full employment, a stable balance of payments, the maintenance of the value of sterling and the control of inflation continued to constitute the main stimuli in the formulation of economic policy. There were, however, important differences. Conservative concern with the scope of the public sector was less to effect its expansion than its reduction and to this was added a strong ideological concern with the organisation of individual nationalised industries. In relation to private industry an initial concern with effecting the reorganisation of some industries was easily deflected by political opposition and the Government's attitude came to be one best described as "holding the ring" in which it restricted itself to the establishment of a competitive climate within which economic activity would take place. By the end of the period, however, these differences had lessened. The deleterious consequences of stop-go policies compelled a revision of its attitude towards its role in the economy growth and the return to planning in 1961.

In broadly summarising the development of economic law during the period covered in this research it is possible to suggest that the substance of economic law simply reflects the political opinion of the period. Thus the nineteen thirties in economic law as well as in politics was an age of protectionism and reorganisation. In contrast

the ethos of post-war politics and economic law was one of the removal of restraint and liberalisation. Its apotheosis was the Restrictive Trade Practices Act 1956. Although it may be argued that such generalisations provide a useful insight into the nature of economic law during the periods under examination momentary reflection on our empirical evidence suggests some of the inadequacies of such an approach. Thus protectionism and the abrogation of competition were not inevitable responses to the global slump in demand which took place in the inter-war period. Our analysis must therefore take account of differences in perspectives and in particular of the possibility of conflict between them. It is possible to baldly describe the Coal Mines Act 1930 as an example of the anti-competitive legislation of the period but our understanding of the content of the Act and its implementation is considerably furthered by the realisation that Part II of the Act which sought reorganisation and was the solution preferred by the Government was directly contradictory to Part I of the Act which was promoted by industry and which provided for the establishment of a cartel.

Moreover, although the ethos of the post-war period was one of liberalisation post-war legislation exhibited a considerable preoccupation with the problems of the inter-war period. The Industrial Organisation and Development Act 1947 set the seal on the corporatist practices of the period. Section 2 of the Borrowing (Control and Guarantees) Act 1946 was specifically conceived of as an "anti-slump weapon", while as late as the debates on the Distribution of Industry Bill 1950 fears of renewed depression and unemployment were being expressed. If the two phases of restriction and liberalisation in this sense overlaps the strength of the commitment to liberalisation and competition is equally uncertain. The slowness with which the

Labour Government proceeded in both the enactment and implementation of legislation against restrictive trade practices and monopolies and Conservative attitudes towards the Restrictive Trade Practices Bill 1956 and the Resale Prices Bill 1964 suggest that the commitment to competition on the part of successive Labour and Conservative Governments was to a certain extent forced and by no means fundamental.

In preference to such an approach we suggested in our analysis of the relationship between government and the economy that the level of intervention was a product of both a set of objective economic circumstances and the extent to which those circumstances were regarded as necessitating intervention. The interpretation of a set of circumstances as requiring intervention, their conceptualisation as a problem, constitutes a normative exercise conducted in terms of values such as full employment, a stable balance of payments or political stability. It involves the conclusion that they constitute an unacceptable deviation from the norm. The interpretation placed upon events we concluded was a result of the ideology or perspective of the social group or class in question. It is in their political perspectives that the substance and form of economic law emerge. The development of economic law may therefore be explained and understood in terms of economic circumstances and political perspectives.

(ii) The area of intervention

The importance of economics in the understanding of the development of law generally bears ample testimony. "The law is the outward manifestation; the social, and especially the economic, fact is the living force ... Legal history is really a handmaiden to economic history; legal development is inexplicable apart from economic forces. The economic fact in this sense is the cause; the legal situation is the

result."[3] The greatest influence on the development of legislation has been social economics, "the most potent and persistent of all the factors."[4] The most potent circumstances in the development of economic law in the period which we have examined have been disruptions in the economic cycle whether on the global scale of the inter-war period or in the lesser but recurring form of the post-war period. The protection and reorganisation legislation of the former period, the Distribution of Industry (Industrial Finance) Act 1958, the Cotton Industry Act 1959 and the Shipbuilding Credit Act 1964 are, for example, all attributable to such disruptions.

Acceptance of the primacy of economic factors does not, however, compel us to conclude that economic law is simply a reflection of economic circumstances for our analysis of government intervention in relation to the depressed areas.has shown that the same set of circumstances has at different times engendered differing conceptualisations of the problem and differing solutions. What has been seen as a problem of surplus populations soluble by means of transference has equally been conceptualised as one of an insufficiency of employment opportunities soluble by the attraction of industry to the areas. Economic circumstances are therefore by themselves insufficient as explanations of economic law. We must in addition have recourse to political perspectives in the sense that it is through them that economic circumstances are reflected in law.

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3 E.R.A. Seligman, Principles of Economics (6th ed. 1914) p. 33.

4 W.H. Turlin, Economics and Jurisprudence, 5 Marquette Law Review, p. 177.

In terms of the genesis of economic law the most important political perspective has been that of the "middle way". The effect of the emergence of a broad reforming consensus in political opinion during the war was to establish a commitment to the welfare state and full employment which ultimately extended to all political parties and which endured throughout the period. The attainment of the latter in particular necessitated the formulation of government objectives in relation to investment and consumption and their reconciliation with the existing constraints of the balance of payments and the value of sterling and the emerging problems of the control of inflation and economic growth.

Equally crucial to the perspectives of political parties and governments are those of industry and business and in particular the possibility of conflict between them. Intervention in our examination has emerged as a function of business confidence and has to a large extent been dependent for its success on being in congruence with business expectations. The attempts made after the war to modernize the cotton industry foundered not only because the Government attached greater weight to the short-term consideration of increased earnings but also because from the point of view of the industry the logic of the measure (the reduction of capacity and reorganisation) was contradicted by the economic background of buoyant demand against which it was implemented. The same was true in the case of the Industrial Organisation and Development Act 1947 and the Industrial Organisation and Development Bill 1954. Conversely the increase in intervention towards the end of the Conservative Governments' periods of office which included the Cotton Industry Act 1959 and the establishment of Economic Development Committees reflected industry's lack of confidence in its own future.

(iii) The form and content of economic law

While political perspectives clearly influence the substance of government action they also influence the procedures adopted by governments in intervening and the methods by which they intervene. Political perspectives therefore prescribe frameworks which confine what governments do and the way in which it is done. We can illustrate this latter function of political perspectives by reference to two characteristics of the intervention which we have examined, the emphasis placed upon the short-term and on proceeding by agreement. These characteristics have moreover we would suggest given rise to a distinctive pattern of statutory development in relation to economic law.

The first characteristic involves an almost exclusive preoccupation with the immediate and the short-term both as regards the selection of problems requiring intervention and results. This tendency is illustrated under both Conservative and Labour governments. For example the decision to seek the abolition of resale price maintenance in 1964 in preference to a planned regional policy was sought on the grounds that the results of the former would be more immediately perceptible and hence have greater political impact than those of the latter. Similarly government policy towards the depressed areas has since its inception and with the exception of the war and its immediate aftermath been governed almost exclusively by the political prominence of the problem rather than by considerations of its solution. For Conservative Governments this concentration on the short-term is partly a necessary consequence of the rapidity with which economic circumstances are liable to change and partly attributable to the exigencies of the political process. Both factors apply equally in the case of Labour Governments but their greater commitment to planning makes it more

difficult to accept these factors as a sufficient explanation without taking account of the factors, and in particular of the opposition to it, which led to the abandonment of planning by the Labour Government of 1945 to 1950. The consequence of the concentration on the short term in the case of both Conservative and Labour governments has been an innate tendency for intervention to be largely reactive and remedial as opposed to proactive and preventive.

The second characteristic of the intervention which we have examined has been an unwillingness on the part of governments to proceed other than on the basis of agreement with affected interests the result of which has been to place compromise at a premium and to compel observance of the limits set out by the extent of the agreement between the parties. One manifestation of this has been the dispensation with law in its entirety either where the extent of the consensus between the parties has been regarded as sufficient to achieve the desired results as in the reorganisation of shipbuilding during the inter-war period or Sir Stafford Cripps' wage bargain of 1948, or where the government has been unwilling to contemplate the coercion of the parties as in subsequent attempts at a wages policy. Another manifestation of this preference has been the predominance of service over regulatory legislation in the period which we have examined.[5] The fundamental preference embodied in the distinction is conveyed by the plea in relation

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5 By regulatory legislation we mean legislation which commands individuals to make or refrain from certain choices of conduct. By service legislation we mean legislation which makes benefits available without compulsion.

to post-war location of industry policy that "instead of unlimited powers to prevent people from doing anything against the interests of the country as a whole, we should have unlimited powers to assist people to do whatever they can to further the interests of the country as a whole," and is illustrated by the development of government policy towards the depressed areas. During the inter-war period government policy towards the depressed areas was firmly established as facilitative in nature. It was intended to induce rather than compel industry to locate in the areas. During the war the sufficiency of a policy of inducements was widely questioned but provisions in the Distribution of Industry Bill 1945 to proscribe the establishment of industries in certain areas engendered considerable political opposition which was not overcome. After the war non-coercion became a fundamental principle of policy towards the areas. Moreover where regulatory legislation has been introduced as in relation to restrictive trade practices and monopolies the same emphasis as proceeding by agreement has been revealed.

This emphasis was above all characteristic of the first post-war Labour Government. "Democratic planning" the essential elements of which were "a minimum of compulsion and a maximum of agreement, persuasion, consultation and other free democratic methods" underpinned the government's relationships with industry and was reflected in the economic legislation of the period. The Industrial Organisation and Development Act 1947 was by itself insufficient to achieve its apparent purpose but it was predicated upon the assumption that its deficiencies could be overcome by consultation, persuasion and agreement. Consultation and agreement although a less systematic feature of the practice of Conservative Governments which perhaps too readily assumed an identity of interests with those of commerce, industry and finance, were, however, characteristic of the entire post-war period examined.

The strength of the expectation of consultation is illustrated by the controversy provoked by the Resale Prices Bill 1964 while the practice was institutionalised with the establishment of the National Economic Development Council in 1961.

Other characteristics of the legislation which are frequently the subject of criticism, may be derived from this premise. In evidence to the Royal Commission on the Distribution of the Industrial Population, Professor Robson criticised the drafting of legislation "in vague and general terms the meaning of which depends almost entirely on the views of the persons called upon to administer them," citing as an example the use of the phrase "in the national interest" in the Mining Industry Act 1926 and the Coal Mines Act 1930. "Administrative discretion is no doubt inevitable but it is highly desireable that legislation on vital matters of social and economic policy should state clearly and explicitly the intention of Parliament and not leave that intention to be inferred by officials authorised to unravel the meaning of loose and ambiguous phrases which are scarcely more than a substitute for thought."[6] Yet where emphasis is placed upon agreement, ambiguity, imprecision and vagueness emerge as functional in that they enable and conceal compromise and agreement between conflicting interests as is illustrated by the decision of the Distribution of Industry Committee to resolve the dispute over whether the power to prohibit the establishment of new factories would be a general or specific one by falling back on the ambiguous statement in the White Paper on Employment Policy. "The prevailing political motivations may necessitate, for

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6 Cmd. 6153, Minutes of Evidence.

example, more or less intentional obscurities, perplexities, or imperfections, inserted or permitted with a view to facilitate the passage of the Bill through Parliament."[7]

The emphasis on proceeding by agreement was not, however, confined to the formulation and enactment of the legislation but also extended to its implementation. This is manifested in a variety of forms including resort to intentional ambiguity and the framing of legislation in facultative rather than mandatory terms and was illustrated most clearly by the first post-war Labour Government's practice of enacting "streamlined" or enabling legislation. Under the Industrial Organisation and Development Act 1947 virtually every aspect of the organisation and operation of development councils from their membership to their functions was a matter of ministerial discretion. This preference for discretion may be attributed to a variety of reasons including the avoidance of judicial review or the facilitation of the application of the legislation to new circumstances without the necessity for renewed legislative authorisation but the most common explanation, we concluded, was to afford as much scope as possible for compromise and the establishment of a consensus in the implementation of the legislation.

Taken together the preoccupation with the politically immediate and the short-term and the emphasis placed on proceeding by agreement have led to a distinctive pattern of statutory development in economic law during the period covered by the present research. Firstly in its inception legislative intervention has been less the product of

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7 Craies on Statute Law, (7th ed. 1971) p. 28.

ideas than events. Only in the case of the first post-war Labour Government did electoral commitments provide the basis for a major part of the economic legislation enacted but it is arguable in the majority of instances that its intervention would have been compelled by circumstances. Secondly the emphasis placed on agreement has afforded considerable scope for the exercise of pressure in the formulation of the legislation and compelled the rejection of means and ends regarded as unacceptable by affected interests. Legislation has tended therefore to be the unintended outcome of a political process of conflict and compromise rather than the conscious product of deliberation and calculation. Finally amendments to the legislation have been incremental, consisting of marginal adjustments which have not departed significantly from the original framework of agreement.

This final aspect of the pattern of statutory development has been reinforced by another feature of the legislative process to which regard must be had in explaining the form and content of legislation; experience. Experience has two sources; previous enactments and their implementation. By the former, with which we are concerned here, we mean that legislation is formulated within the framework of precedent. "The Board are guided in preparing Bills for the consideration of Parliament by such general principles as can be deduced from the precendent of existing statutes."[8] The duty of a member of the Office of Parliamentary Counsel to the Treasury is not simply to follow the Minister's directions but also to fit the provisions of a particular Bill "into the structure and form of the statute-book as a whole."[9] Legislation on rent control Barnett observes "was

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8 Report from the Select Committee on Delegated Legislation 1953. H.C. 310 Minutes of Evidence, p. 111.

9 The Making and Form of Bills, 1949 Parliamentary Affairs, p. 176.

conducted within the framework of precedent ... Almost every major clause in the 1957 Rent Act had its antecedent in one or more of the previous acts. Even the arguments of the debates in 1956-7 may be found in the records on previous acts in the 1920s and 1930s."[10] This reliance on precedent contributes towards continuity in the form of legislation and the pattern of statutory development which may subsist despite changes in governments. The principle of facilitative rather than coercive intervention once crystallized in legislative form became the underlying principle of the Special Areas Acts and their successors. Precedent may also influence the future form of legislation in matters of detail. The inclusion of a power to assist industry by way of both grants and loans in the Special Areas (Amendment) Act 1937 made it difficult to exclude the power to provide assistance by way of grant from the provisions of the Distribution of Industry Bill 1945.

Finally, in explaining the form and content of legislation regard must be had to the experience derived from the implementation of its predecessors. Clearly this may lead to the attempted improvement of the legislation through for example the assumption of additional powers but the most significant example we have examined was the attempt to insulate the administration of the Distribution of Industry Acts 1945 and 1950 from the political process where its impact on the administration of the Acts was deemed unacceptable. Section 7 of the Distribution of Industry Act 1945 required the consent of affected

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10 J. Barnett, The Politics of Legislation. The Rent Act 1957, (1969) p. 19.

local authorities and both Houses expressed by affirmative resolution before an area could be removed from the schedule to the Act. In practice this made their removal impossible and the Government resorted to the temporary expedient of administrative de-scheduling. The influence of this difficulty on the subsequent Distribution of Industry (Industrial Finance) Act 1958 and Local Employment Act 1960 was reflected in the omission of any provision for the consultation of local authorities or the expression of parliamentary approval.

Whereas in explaining the area of intervention as reflected in economic law account must be taken of economic circumstances and political perspectives, in explaining the form and content of intervention in addition to political perspectives regard must be had to the experience of draftsmen and administrators. It is this combination of political perspectives and administrative and drafting experience which we may term the legislative perspective of a government.

(iv) The significance of economic law

The present research has confirmed the accuracy of Professor Schmitthoff's observation that economic law "reflects the transistion to a planned and directed free market economy."[11] Planning or the attempt to control economic events and their consequences has been a recurrent theme of the present research whether as undertaken by industry in conjunction with finance and the passive acquiesence of government in the inter-war period or as initiated by governments in the post-war period. The failure of the Conservative Government's economic policies did not lead to the abandonment of its responsibility

11 Schmitthoff, op.cit., p. 315.

for managing the economy but instead to increased attempts to discharge it more effectively and the contradiction of its earlier held tenets as to its role in relation to the economy. Economic law constitutes the legislative expression of these increasing functions of government in relation to the economy and is associated in particular with the emergence of the Welfare State with its broad commitment to the control and direction of the economy.

Much of the legislation which we have examined has been unremarkable . Successive Export Guarantees Acts confirm the absence of inherent executive powers in government and the necessity of parliamentary approval for expenditure but in the absence of any inherent legal significance their analysis offers us at best, over a period of time, a measure of the political and financial commitment of governments to the furtherance of exports. In this sense economic law simply reflects the areas and forms of state intervention in the economy. Other legislation, most notably in relation to industrial organisation, competition and the location of industry, has, however, been infinitely more complex and revealing as to the relationships between government, the economy and law. In the period subsequent to that covered by the present research these areas have continued to exercise government and to them have been added new areas of legislative intervention such as the regulation of prices and incomes and it is in the further study of this legislation that the greatest contribution to the future development of economic law will be made.

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