

“Bevin, the law and industrial relations in Britain:
the impact of the Second World War assessed”.

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The system of industrial relations which prevailed in Britain for much of the twentieth century was characterized by what has often been referred to as “voluntarism” and “legal absenteeism”. Until the late 1960s, the consensus among politicians, civil servants, employers and trade unionists that the law and industrial relations should not mix was such that Otto Kahn-Freund, a keen observer of labour relations, could write in 1957 that the fundamentals of labour law had barely changed since 1914. “Collective *laissez-faire*” also described this “retreat of the law from industrial relations and of industrial relations from the law” in a system based on collective bargaining¹. On the other hand, the period between 1914 and 1957 was marked by two world conflicts where special circumstances required special intervention, notably in the form of legislation. War was thought to have brought about considerable social and institutional change by people who had had first-hand experience of it and historians of the immediate post-war period, and such a view remained prevalent throughout the 1960s². Historians have since qualified the impact of the Second World War on the condition of women, class-consciousness, the consensual image of the war and, more generally, on “the Dunkirk spirit” and “home front” mythologies. Nonetheless, a great deal of war-time legislation *was* passed and there *was* an unprecedented measure of State intervention between 1939 and 1945, and at a time when the qualifications are themselves being subjected to scrutiny, I shall endeavour to make a brief assessment of the impact of the legal intervention that took place during the Second World War in the area of labour relations³.

Before being appointed Minister of Labour and National Service in the coalition government, an office which, from May 1940 to May 1945, granted him power that was second only to Churchill’s given the vital importance of controlling the least controllable element, the workers, Ernest Bevin had been a trade unionist for many years, eventually becoming General Secretary of the TUC. The General Strike had convinced him that

¹ KAHN-FREUND, O., Sir, *Selected Writings*, London: Modern Law Review, 1978, 9.

² e.g., MARWICK, A., *Britain in the Century of Total War: War, Peace and Social Change, 1900-1967*, Boston: Little and Brown, 1968.

³ HARRIS, J., ‘War and Social History: Britain and the Home Front during the Second World War’ *Contemporary European History*, I, 1 (1992).

pragmatism was the preferable course for trade unions and that pluralism should be made to work for the workers. This social-democratic, reformist outlook, along with a deeply rooted distrust of communists, made him an ideal choice for a job in Churchill's coalition government. Bearing in mind Bevin's vision and his crucial role in shaping war-time labour law, I shall examine that legislation's scope and actual enforcement and, perhaps more importantly, what remained of it when the circumstances of war subsided. Did the "old style capitalism" cease to exist in 1939 with this greater reliance on the law in a country where there was less of a war-time effort than in the US to "divorce industrial relations from the larger political universe"⁴? Or did the war and its controls - some partly inherited from the First World War experience - simply rejuvenate and strengthen voluntarism which, though it had not benefited the unions much in the inter-war period, was said to have been "crucial in the achievement of victory over Nazism", thus making it a key element of any post-war consensus⁵?

Sir Otto did of course acknowledge that the law hadn't been entirely absent from British labour relations; he also noted that, increasingly, legislation was being used "as a substitute for collective bargaining, as a stop-gap where dis-equilibrium of social forces makes its intervention inevitable"⁶. The war made more intervention inevitable and a creation of the Great War, the Ministry of Labour, played a leading role in carrying through important new legislation, shortage of manpower being arguably the main war-time problem. Without going into detail, I should insist on the fact that government acquired extensive controls which would have been wholly unacceptable in peace time.

Conscription (industrial, not just military) was extended via legislation which organized dilution – the replacement of skilled workers by semi-skilled workers - and

⁴ LICHTENSTEIN, N., 'Class Politics and the State during World War Two', *ILWCH*, 58, Fall 2000, 261.

⁵ TAYLOR, R., 'Industrial Relations, Regulation against Voluntarism' *in* MARQUAND, D. & A. SELDON (eds.), *The Ideas that Shaped Post-War Britain*, London :Fontana, 1996, 92.

⁶ KAHN-FREUND, *Ibid.*, 9.

increased the role of women⁷. Control of manpower was facilitated with the Essential Works Orders of March 1941, the keystone to government intervention which gave Bevin control over entire industries when he deemed them essential to the war effort. The idea was to address the problems of excessive labour turnover and absenteeism since, under an EWO, employers needed permission from ministry officials –the National Service officers– to dismiss an employee and employees needed permission to leave employment. As this reeked of the infamous leaving certificates which, along with compulsion more generally, had caused much unhappiness among workers in the Great War, Bevin, rather characteristically, stipulated that, for an order to be issued, an undertaking should provide good standards of employment including minimum wages. Earlier legislation, the Conditions of Employment and National Arbitration Order 1940, better known as Order 1305, made strikes and lock-outs illegal and set up a National Arbitration Tribunal, thus introducing a measure of compulsory arbitration into English Law. Later in the war, the Ministry obtained even more draconian powers, officially to deal with Trotskyite elements in the workforce: Defence Regulation 1AA provided that any person who should “declare, instigate or incite any person to take part in, or (...) otherwise act in furtherance of, any strike among persons engaged in the performance of essential services or any lock-out of persons so engaged” could be sentenced to a maximum term of five years’ penal servitude.

The coalition government also intervened in two areas of the economy where Bevin felt legislation was most needed: the docks and catering. To remedy the dockers’ appalling working conditions, the Dock Labour (Compulsory Registration) Order set up a National Dock Labour Corporation with equal representation from employers and trade unionists. In catering, a very diverse industry which employed around half a million people, wages and conditions of employment were controlled by neither collective agreement nor statute. Rather than issuing an EWO, Bevin introduced a specific Bill. The Catering Wages Act (1943)

⁷ National Service (N°2) Act, 1941

established a permanent Catering Commission to review wages and working conditions, make recommendations when collective bargaining proved ineffective and, if no improvements were forthcoming, to advise that the Minister of Labour appoint a wages board with statutory powers to set wages and working hours.

To assess the machinery whose main features have just been presented, several questions may be posed. First, what did all this amount to? Did these controls and mechanisms in any way amount to the comprehensive, coherent plan that many had called for during the war and that many in the Labour Party – though fewer in the unions – hoped would typify the post-war period? Secondly, how true would it be to say that simply by using intervention and controls as never before, the government had broken with voluntarism? What was the purpose of the legislation, what was its scope and how did it fit in with a mechanism that had favoured collective bargaining since the 1890s? Thirdly, how effective were these laws when (and if) they were actually enforced?

In 1940, Bevin was accused of not having a long-term, coherent vision for industry by left-wingers and Conservatives alike. In March 1945, as the Distribution of Industry Bill was being debated in the House, an independent MP shouted “There ain’t no plan”, a view echoed, though in different terms, in *The Economist*⁸. Indeed, at the end of the war, Bevin argued that there was only so much a coalition government could do and that a Labour government alone could achieve a greater degree of planning: this revealed Bevin’s reconciliation to the idea that war-time controls should form the basis of some kind of post-war planning, but it also served as an explanation for and/or justification of the step-by-step approach he had adopted in the previous five years. The former trade unionist who had learnt the lessons of the First World War discontent, had shown considerable reluctance to compulsion at first and it seems that Beveridge (not someone he got on with) was influential in getting him to push through

⁸ HC Debs, 404, 21 March 1945, col. 808, in TOYE, R., *The Labour Party and the Planned Economy, 1931-1951*, Woodbridge: Royal Historical Society/Boydell, 2003, 152.

Parliament the war-time controls which gave his ministry such a vital role⁹. The feeling that the machinery was both draconian and piecemeal is apparent in many areas and wage control is but one example: There, as elsewhere, Bevin's views prevailed over those of Tory MPs and Cabinet colleagues who worried about wage rises: to counter the Chancellor's argument that it was "illogical (...) to continue to treat the determination of wages as a private affair for employers and the employed", he pointed to the dangers of greater intervention: if the State controlled wages, nationalisation would follow¹⁰. The State would also be weakened by a departure from collective bargaining – which, he emphasized, was already supplemented by compulsory arbitration – for it would become "involved in all the countless negotiations on matters other than wages which were now being handled satisfactorily by the ordinary machinery of industrial negotiations"¹¹. With the "ordinary machinery", the unions would not be antagonized and wage rises would bring co-operation in its wake.

Using EWOs, Bevin *did* see to it that wages increased for farm labourers or workers in the drop forge industry for instance; using specific legislation, he saw to it that they increased in the docks or in catering, and with the compulsory arbitration under Order 1305, he also saw to it that they increased elsewhere. And yet these measures never amounted to the wage control that many Tories called for, nor to the planning that the Left advocated, and the law was mostly there to "supplement". It provided sweeping powers but, paradoxically, was mainly ancillary, allowing historians to evoke the advent of "guided voluntarism" and to claim that "even at the war-time peak of restrictions on union rights, the state had no statutory powers which would enable it to determine wages rationally in accordance with an economic plan"¹².

⁹ On Beveridge's influence, see TOYE, *Ibid.*, 142..

¹⁰ WEILER, P., *Ernest Bevin*, Manchester: Manchester University Press, 1993, 120.

¹¹ *Ibid.*

¹² TOYE, *op. cit.*, 122.

Conscription seems to be the area where the State is regarded as being most entitled to use compulsion and industrial conscription may be seen as constituting no exception when the life of the nation is a risk. Nonetheless, the evidence points to the fact that even dilution, the central plank of industrial conscription, was achieved via agreements between the unions and employers' federations: "it was a policy of voluntarism combined with compulsion, not outright industrial conscription"¹³. Compulsory arbitration was not achieved through agreement but most disputes were actually resolved by negotiation between the parties or the organisations which represented them and Order 1305 was referred to as "virtually a collective agreement, given the clothing of law"¹⁴. The idea that regulation and collective agreement should go hand in hand also presided over the last war-time labour law creation, the Wages Councils, which were described "as a hybrid form between statutory regulation and voluntary bargaining"¹⁵. The Catering Wages Act is yet another example of statutory provisions supplementing existing machinery since it set up a tripartite commission to conduct enquiries into existing methods of establishing wages and working conditions in catering and make recommendations to the government if (and only if) it found that the existing machinery was unsatisfactory. If that came to nothing, the government could then appoint a wages board whose decisions were binding. Not only was there no general plan regarding wages in general, therefore, but even within a given industry, the government "acknowledged both the diversity of practice within the industry and the policy of promoting and respecting industrial self-government"¹⁶. The reasons for this tendency to use the law as a "stop-gap" are again to be found in Bevin's vision of a system that would ensure workforce co-operation, where the mistakes of the First World War would not be repeated and where the unions would achieve greater strength and recognition. Thus, compulsion could be used, but

¹³ WRIGLEY, C., 'The Second World War and state intervention in industrial relations, 1939-1945' in WRIGLEY (ed.), *A History of British Industrial Relations, 1939-1979*, Cheltenham: Edward Elgar, 1996, 35.

¹⁴ PELLING, H., *A History of British Trade Unionism*, London: Macmillan, 1963, 216.

¹⁵ HOWELL, C., 'Constructing British industrial relations', *British Journal of Politics and International Relations*, Vol. 2, N° 2, June 2000, 220.

¹⁶ BRODIE, D., *A History of British Labour Law, 1867-1945*, Oxford: Hart Publishing, 2003, 241.

only if “ordinary mechanisms” failed. Let me add in passing that a great many committees were set up, including the Joint Consultative Committees and the Joint Production Committees, to ensure that employers and trade unions were consulted and that these committees formed an essential component in Bevin’s manpower management policy.

So where there was change in the law, it often seemed that it was not part of a broader industrial plan. Rather, the scope of the new provisions was limited by the express requirement that it should not be introduced at the expense of the various voluntary mechanisms already in place. The central plank of Bevin’s manpower management strategy was initially criticized by both sides of industry who claimed it abandoned voluntarism¹⁷. In assessing the actual success of war-time legislation in action, it seems fitting to start with that instrument, the Essential Works Orders, since most historians agree that the Ministry of Labour’s contribution to the war effort was crucial and that EWOs “had considerable success in stabilizing labour in key war work, especially initially”¹⁸. By 1945, 19 industries were covered, *i.e.* 67,500 undertakings employing over 8.5 million people. Their effects on working conditions, therefore, were far from negligible, though difficult to quantify given that the labour shortage would have incited employers to improve conditions anyway, to retain their workforce. On that score, labour turnover could not be avoided; if women often found it almost impossible to cope with work, journeying and domestic responsibilities, they were by no means alone in applying for permissions to leave, discharges or transfers: by June 1945, there had been 8,726,268 applications, 84% of which had been granted. Half-way through the war, a Mass Observation study came to a cautiously positive assessment: “There is a gap

¹⁷ BULLOCK, A., *The Life and Times of Ernest Bevin, Vol. 2, Minister of Labour, 1940-1945*, London: Heinemann, 1967, 57.

¹⁸ WRIGLEY, *op. cit.*, 23.

between the theoretical restraint imposed by the Essential Work Order (...) and the actual effect, though this effect has checked the extreme wastage movement of 1940”¹⁹.

If the Ministry of Labour used EWOs extensively, the issue of the enforcement of the criminal provisions of Order 1305 proved very sensitive. During the First World War, wide-scale industrial unrest had contributed to the sense that the State was powerless to deal with strikes in war-time²⁰. During the Second, the labour shortage also meant more strikes - though fewer days lost overall - and the arduous question of whether to prosecute arose. Given his reluctance to compulsion, it is not surprising that Bevin should have been loath to prosecute, preferring to see Order 1305 as a deterrent. He knew that “the contrary course would expose the weakness of the Order” and, despite recommendations based on the situation in Scotland, where the Lord Advocate was responsible for prosecution in those matters as in others, Bevin made sure that the decision to institute proceedings remained with his ministry, as is made clear in a circular he got the Home Secretary to send all chief constables “to avoid independent action by the police”²¹. Consequently, prosecutions were few and far between (half as many as in Scotland). In 1942, a strike at the Betteshanger colliery in Kent confirmed Bevin’s fears. As a last resort, proceedings were instituted against all 1050 strikers: On January 23, three union leaders got gaol sentences and the other miners were fined. In early February, the Home Secretary recommended the release of the leaders and, in May, since only nine miners had paid their fines and it was inconceivable to arrest over a thousand defaulters, the Ministry of Labour, via the Home Office, advised the judges to hold the arrest warrants in abeyance. This episode provided the strikers with a moral victory and exposed the fundamental weakness of an unenforceable instrument. It also led to the controversial decision

¹⁹ MASS OBSERVATION, *People in Production: An Inquiry Into British War Production*, London, 1942, 101. Though the results of these war-time studies were later qualified (see HARRISON, T., *Living through the Blitz*, London: Collins, 1976), there doesn’t seem to be any reasons to doubt the validity of this particular conclusion.

²⁰ REID, A., ‘Dilution, trade unionism and the state in Britain during the First World War’ in TOLLIDAY, S. & J. ZEITLIN, *Shop Floor Bargaining and the State: Historical and Comparative Perspectives*, Cambridge: Cambridge University Press, 1985, 60-61.

²¹ On the Minister of Labour’s fears, see PARKER, H.M.D., *A Study of War-time Policy and Administration*, London: HMSO, 1957, 467. On the situation in Scotland, see PRO, LAB 10/172 (Galbraith’s memo on possible lessons from enforcement of Order 1305 in Scotland). On the Home Office circular, see PRO, LAB 10/172 (letter from Emerson about the Home Office circular).

to make Defence Regulation 1AA, under which no proceedings were ever instituted. It is difficult to ascertain whether these instruments – one that was seldom enforced, the other never – dissuaded workers from striking. Some historians believed that such a strong signal had been useful in stabilising labour relations, but, to quote Parker, Regulation 1AA “was harmless –it may even have acted as a deterrent to militant agitators – but on the necessity for it there may be (...) room for disagreement”²².

“They used to say Gladstone was at the Treasury from 1860 to 1930, well I’m going to be at the Ministry of Labour from 1940 to 1990” Bevin remarked on being appointed²³. In 1994 the journalist who recalled the quip added that he “had nearly made it” when the Thatcher revolution came along. The article only dealt with the effects of war-time legislation on the post-war period in one industry, the docks, in which, “the post-war pattern of industrial relations (...) was broadly defined during the Second World War, when urgent circumstances combined with the presence of Bevin at the Ministry of Labour to produce a radical transformation of the traditional system of casual employment”²⁴. In 1946, a policy of decasualisation based on a EWO and specific legislation led to a typical Bevinite formula: the new Labour Minister presented the industry with an ultimatum: if by 30 June 1947, no permanent scheme for decasualisation was presented, the minister would issue an order. The negotiations came to nothing and on 1 July, The Dock Labour Scheme was born. If the Scheme was abolished as late as 1989 by a Tory Employment Secretary who “performed the last rite on the Bevin era in the docks”, it should be pointed out that its effects had been limited in the 1970s by the gradual demise of corporatism and that it had failed to pacify labour relations²⁵. As early as 1947 and throughout the 1950s, there was much industrial unrest, unrest that was due not to communist agitators as was claimed by the Home Secretary,

²² CROUCHER, R., *Engineers at War, 1939-1945*, London: Merlin, 1982, 240-243. PARKER, *op. cit.*, 471.

²³ PHILLIPS, J., ‘Decasualization and disruption : industrial relations in the docks, 1945-79’ in WRIGLEY, *op. cit.*, 165.

²⁴ *The Guardian Weekend*, 19 March 1994, in PHILLIPS, *Ibid.*

²⁵ PHILLIPS, *Ibid.*, 182.

but to real underlying tensions: decasualisation hadn't really changed the way people were recruited and most workers were still hired casually. Besides, the only true advantage of working casually had been taken away: the freedom to work or not to work on a particular day and, more generally the freedom to refuse to work had been removed. Joint administrative control also meant disciplinary procedures which caused tensions between union officials and the rank and file. Despite these practical difficulties, however, the impact of the war on labour relations in the docks in the following years cannot be denied, particularly since the docks were "one of the few industries in which collective agreements have legal effect"²⁶.

The post-war preoccupied the government and Parliament particularly when it became likely that the war would be won. Reconstruction was in everyone's minds and a Reconstruction Committee made up of members of the War Cabinet was set up. More long-term projects were also envisaged and public opinion became interested (the success of the Beveridge report in 1942 testifying to both). Among politicians, the debate was extremely lively in the Labour Party where the issue of long-term planning was on the agenda. Being at the same time a Cabinet minister, an emblematic figure in the Labour Party – where he enjoyed far greater popularity than Attlee – and someone who had often made it clear that pre-war, war and post-war should not be separated, Bevin contributed more than most other Labour leaders to a shift to the Left in public opinion, and to a general feeling that the so-called "people's war" - a concept based on the idea that the British people had come together, transcending traditional divisions - should produce a "people's peace" and a "new industrial order". Once again, wage policies provide evidence of this: The latest measure Bevin introduced as Minister of Labour, was an Act that replaced the old Trade Boards with Wages Councils, a text that, in his own words, was "a declaration by Parliament that the conception of what was known as a sweated industry is passed"²⁷. The machinery and the logic behind the text were similar to those behind the Catering Wages Act: the Ministry could set up a

²⁶ KAHN-FREUND, *op. cit.*, 16.

²⁷ Parl. Deb., 9.2.43, HC, vol. 386, col 1207, in BRODIE, *op. cit.*, 243.

Wages Council with powers to impose terms that would be implied in the contract of employment (thus subjecting defaulting employers to criminal proceedings) if there was no adequate machinery in place or if collective bargaining in an industry produced unsatisfactory results. Once again, the law supplemented collective agreements. It was hailed “one of the most important pieces of legislation ever laid before Parliament” and meant that “the wages and conditions of work of fifteen million men and women, the overwhelming majority of the population, would come under the protection of negotiated agreements or statutory regulations”²⁸.

Bevin felt that what emerged from collective bargaining stood a better chance of being retained after the war than what had been imposed through compulsion. He believed therefore that some of the war-time controls should be retained in the post-war period but that what should be retained and for how long should be decided pragmatically, and that the aim should be to strengthen collective bargaining in general and the unions’ bargaining position in particular. The Ministry of Labour archives bear witness to the fact that issues regarding the fate of war-time controls preoccupied officials at the ministry a great deal²⁹. They also preoccupied the Labour party and, though collectivist ambitions had been mostly abandoned by 1947, their theoretical impact remains of interest. Some historians believe that war-time controls had had little or no bearing on Labour’s nationalisation plans³⁰. Brooke, on the other hand, argues that they strengthened the case for “practical socialism” and that “the road to the ‘Socialist Commonwealth’ became paved not with nationalized industries but with manpower budgets, building licences, and physical controls”³¹. Toye, while agreeing with Brooke, concludes that though he is “correct to claim that war-time developments undermined the theoretical justification for socialisation”, it is also true that their practical impact on Labour’s

²⁸ *The Economist*, 13 January 1945, in BULLOCK, op. cit., 353. BULLOCK, *Ibid.*, 254.

²⁹ PRO, LAB 10/248 (Minister’s proposals for post-war development, industrial relations – 1943) or PRO, LAB 8/909 (Ministry of Labour memo: labour controls in the interim period) for example.

³⁰ TAYLOR, I., ‘Labour and the Impact of War, 1939-45’ in TIRASOO, N. (ed.), *The Attlee Years*, London: Pinter Press, 1991, 23-24.

³¹ BROOKE, S., *Labour’s War, The Labour Party during the Second World War*, Oxford: Clarendon, 1992, 239.

programme was very limited³². Toye also insists on the theoretical significance of these controls in the wider debate over who should have the final say on economic policy in future governments for, in Labour quarters, physical controls enforced by ministries like the Ministry of Labour were seen as a way of limiting the influence of the Treasury's macroeconomic policy, only to conclude that this idea gradually lost momentum³³.

To return to the practical impact of war-time legislation and decide whether Kahn-Freund's widely held view that "war-time controls of the labour markets (...) vanished in the sun of peace like snow in the spring" should be qualified, we should indeed look at what remained and what vanished, and the impact it all had on labour relations³⁴. True, the Restoration of the Pre-War practices Act 1942, which guaranteed a return to certain trade practices, industrial customs which the unions had agreed to suspend for the duration of the conflict, could be seen as a perfect symbol of the ephemeral and exceptional nature of those war-time regulations. True, the condition of women was not altered considerably by this episode and in 1945, many were expected, even by Bevin, to return to their pre-war routine. True, many measures were either scrapped or retained merely for the interim period; "temporary expedients associated to war and –after 1945 – the critical aftermath of war" Moran called them³⁵. Be that as it may, the post-war years were very different from the period leading up to 1939 and in that sense, the War *did* bring about substantial change. The unions had come out bruised of the Great War, the Second World War strengthened them. War-time regulations – whether they remained or not after V-day – may have been expedients, but they also symbolized a shift in the attitude of government. The anti-workforce bias of the administration in the First World War was certainly exaggerated but when Bevin asserted that the Wages Councils Act was a "declaration by Parliament that the conception of what was

³² TOYE, *op. cit.*, 127.

³³ *Ibid.*, chapter 9 (208-235).

³⁴ KAHN-FREUND, *op. cit.*, 3.

³⁵ MORAN, M., *The Politics of Industrial Relations, The origins, life and death of the Industrial Relations Act*, London: Macmillan, 1977, 8.

known as a sweated industry is passed”, it may well have been precisely that³⁶. The war-time laws were expedients; they were also “declarations” by Parliament and Government that times had changed though the bargaining mechanisms were retained whenever possible. They were declarations that “dis-equilibriums” would not be tolerated and that, this time round, post-war voluntarism would involve equal partners, declarations that it was a different type of collective bargaining supported by the State and, in some cases only, underpinned by durable regulations. The laws that remained may have been partly auxiliary but as Brodie remarked about the Wages Councils Act, and the Ministry’s decision under it to set up a Wages Council: “It should be noted that the criteria remained the same as in 1918. However, it would not be reasonable to conclude from this that nothing had changed. There was, in fact, every reason to suppose that, by virtue of the intended manner of administration, the Wages Council provisions would play a greater role than during the inter-war period”³⁷.

A change in the attitude of Government, along with full employment, affected the unions’ fortunes and the war-time laws had reinforced collective bargaining by what they had not regulated, and reinforced one party to the collective bargaining by what they had. Even Regulation 1AA, which had been held up to public obloquy by the Left, had never been enforced and had been repealed immediately after the war, aimed at improving the position of union officials. Not to mention Order 1305, whose provisions regarding compulsory arbitration were maintained in 1946 for a further five years under Order 1376 which dropped the prohibition of strikes and lockouts: both orders not only reinforced industry bargaining but also stated that “an indirect form of union recognition for employers who refused recognition could have industry standards imposed on them³⁸”. The second gave the unions the benefit of compulsory arbitration without the inconvenience of the ban on strikes³⁹. Kahn-Freund may well insist on the lack of direct enforceability of the obligations imposed under Order 1305

³⁶ On the exaggeration of the government’s anti-workforce bias, see REID, *op. cit.*, 60.

³⁷ BRODIE, *op. cit.*, 244.

³⁸ HOWELL, *op. cit.*, 220.

³⁹ KAHN-FREUND, *op. cit.*, 16-18.

and on the fact that the issues were an opportunity for a “creative award” made by a body made up of a “majority of non-lawyers” which could validly come to an agreement on “e.g. a wage lower than that laid down in the relevant collective agreement”, yet he himself admits that, in practice, “the courts had had no opportunity of affirming it”⁴⁰. The new balance inherent in the war-time *quid pro quo* gave the unions an edge in practice. True, the ban on lockouts affected the employers less than the ban on strikes affected the workers, but arbitration profited the latter and the criminal provisions were seldom used anyway. Even though it merely underwent a short post-war renaissance, arbitration had also given union leaderships more clout, especially when it was used wisely: one example in the motorcar industry demonstrates that “union opportunism” was able to “utilize the potential leverage of the wartime framework of regulation” and that some unions were better at it than others⁴¹. By obtaining a very favourable award for semi-skilled workers, in November 1946, the National Union of Vehicle Builders could claim: “we used the NAT as our recruiting base”⁴².

Given our contention that the unions had broadly benefited from the war-time controls it may seem somewhat paradoxical that such an opposition should have had the effect of limiting state intervention and planning⁴³. The paradox is only apparent: even though part of Bevin’s policy included the promotion of social provisions in the workplace (rest-rooms, canteens, music even), after the war, the unions believed in a division between employment matters – where they were wary of state intervention – and other social policies (symbolized by the Beveridge report) where they endorsed more legislation⁴⁴. In that respect, trade unions are sometimes used as an example of the “contradictory and ambiguous” nature of “psychological attitude to social change”, but another aspect of British attitudes has greater

⁴⁰ *Ibid.*, 17.

⁴¹ TOLLIDAY, S., ‘Government, employers and shop floor organization in the British motor industry, 1939-69’ in TOLLIDAY, S. & J. ZEITLIN, *op. cit.*, 112-113.

⁴² *Ibid.*, 121.

⁴³ There are disagreements as to whether it was the union’s opposition to controls (BROOKE, S., ‘problems of socialist planning: Evan Durbin and the Labour government of 1945’ *Historical Journal*, xxxiv (1991) 700) or the ministers’ sharing this opposition that contributed to a retreat of the law after the War (TOMLINSON, J. ‘The iron quadrilateral : political obstacles to economic reform under the Attlee government’ *Journal of British Studies*, xxxiv (1995), 103).

⁴⁴ TAYLOR, R., *op. cit.*

relevance: the “defence of the untidy, atomistic, ramshackle pluralism of British social life that for many people seems to have made the war worth fighting” combined with a fundamental desire “to be left alone” – including at work⁴⁵. As regards employment matters, the unions’ long-held attachment to collective *laissez-faire* was only strengthened by the new *rapport de force*. Though it might be somewhat excessive to follow Middlemas in calling them a “governing institution”, the war-time opportunity to reinforce their bargaining position had given the unions new confidence and regulations seemed all the more redundant given full employment, the government’s unofficial pressure on employers and the need for the unions’ leadership to deal with the ever-problematic tension between defending the common good and their members’ interests.

Some regulations were repealed, others survived for the interim period, a few remained a little longer, such as the Wages Councils Act, though, in practice, its influence was greatly reduced by the successive post-war governments’ macroeconomic policies which soon relied on a disinflationary policy rather than a differential one, but it seems unfair to be too dismissive of them⁴⁶. If on the whole they did “vanish in the sun of peace” to quote Kahn-Freund, to quote my grandfather, a great admirer of Ernest Bevin and a fellow-Westcountryman, for the trade unions “a layer of snow was worth three layers of dung”.

Under the influence of a Minister of Labour who, in exceptional circumstances, had shown himself increasingly prepared to use exceptional measures to achieve victory over Nazi Germany, exorbitant war-time legislation was brought in to govern industrial relations. If this phenomenon is only to be regarded as constituting a real, durable break with pre-war labour relations to the extent that the legislation that caused it was later maintained, then I should have no choice but to conclude that there was no such watershed. And yet it seems undeniable that the repeal of most of these legislative instruments did not mean that a pre-war form of

⁴⁵ HARRIS, *op. cit.*, 26-27 & 31-32.

⁴⁶ On the reduction of the influence of the act, see HOWELL, *op. cit.*, 220-221. On the reliance on a disinflationary policy, see TOYE, *op. cit.*, 218-219.

“collective laissez-faire” verging on “pure laissez-faire” was restored. Far from it. The “ramshackle voluntarism” gave way to an increasingly institutionalised, corporatist, voluntarism. State intervention in the shape of labour law mostly departed but tripartite institutions allowed the State to keep a careful eye on bargaining between employers and workers in a context that had also changed considerably in practice, given the strong position enjoyed by the unions. There may not have been a new post-war consensus in the sense that society couldn’t come to reflect in peace time the myths of a “people’s war”, and yet until the end of the 1960s at least, relative consensus prevailed in labour relations, where, as Toye put it, Butskellism had arrived early. I therefore believe that the Second World War, with its laws, the *quid pro quo* they never failed to enact, their selective enforcement, their transitory nature and the way that, oddly enough, they managed to encapsulate the vision of a pluralist who also described himself as a “revolutionary conservative”, was essential in bringing about this “conservative revolution”. In that sense, I also believe that the reformist impact of war-time legislation should not be dismissed too hastily and that that the consensus that characterized industrial policy till the late 60s and that increasingly aggravated both the revolutionary Left and laissez-faire Conservatives was a fitting legacy to Bevin. Not that he single-handedly achieved a *modus operandi* in British labour relations of course, but, if the social revolutions based on war-time myths were rightly refuted over the past thirty years, it may have been because a number of causes had lacked powerful champions. As far as “new pluralism” is concerned, it was championed by a man of whom it could probably be said that he actually *was* at the Ministry of Labour from 1940 to 1970.