CABINET

INDUSTRIAL RELATIONS

Note by the Secretary of the Cabinet

By direction of the Prime Minister I circulate herewith the text of a statement issued by the Department of Employment and Productivity yesterday evening, together with a letter which the First Secretary sent to Mr. Victor Feather on 3rd June, 1969.

(Signed) BURKE TREND

Cabinet Office, S.W.1.

6th June, 1969
ANNEX A

Statement issued by the Department of Employment and Productivity on 5th June, 1969

The Government have noted the decision of the Special Congress which has approved the General Council's proposals in "Programme for Action".

As the Government has made clear in its exchanges over the past weeks with the TUC, they recognise that the General Council's proposals are a major advance, and in particular, that those for dealing with inter-union disputes now seem broadly satisfactory. But the Government has considerable reservations about the effectiveness of the General Council's proposals for dealing with unconstitutional strikes and, in particular, about the proposed arrangements for ensuring that awards and recommendations made after a TUC enquiry into such disputes are implemented by affiliated unions and by their members.

The General Council have been invited to meet the Prime Minister and the First Secretary on Monday, 9th June, when there will be further discussions on the TUC plans and the Government's proposals for legislation.
I am writing to follow up the meeting with the General Council on 21st May when we discussed the General Council’s report “Programme for Action”, since the Prime Minister and I think we should put on record before the Special Congress on 5th June the Government’s views we expressed at that meeting. These views have been confirmed by further study of the General Council’s report.

2. At the meeting we made it clear that the Government considered the proposals in “Programme for Action” a major advance and in particular that those for dealing with inter-union disputes now seemed broadly satisfactory. On the other hand, as has been made clear in our discussions we have considerable reservations about the proposals for dealing with unconstitutional strikes. It has been consistently emphasised that the Government regarded as essential and urgent that effective measures should be taken to deal with unconstitutional stoppages, which though perhaps not large in themselves, nevertheless caused by their repercussions serious damage to the economy and hardship to perhaps thousands of other workers. As the White Paper “In Place of Strife” recognises, a major contribution to the solution of this problem may be expected from long-term measures, in particular the improvement of negotiating and disputes procedures. The Government has already taken action in this field by the appointment of the CIR and the registration on a voluntary basis of procedure agreements. In the Government’s view, however, short-term action both by the Government and by the two sides of industry is also vitally needed, and all practicable steps must be taken in an effort to contain the effects of the most seriously damaging unconstitutional strikes. The Government’s proposals for a conciliation pause has been framed for this purpose.

3. Turning now to the General Council proposals, the Government welcomes the recognition in paragraph 40 of the need for carrying out urgent “on-the-spot” investigations and for making recommendations and awards with a view to securing a speedy resumption of work and of negotiations on outstanding matters. The proposed arrangements for ensuring that recommendations and awards are implemented are, however, in the Government’s view inadequate in a number of respects which are set out below.

4. Paragraph 42 says that the General Council would “require unions to satisfy them that they had done all that they could reasonably be expected to do to secure compliance with a recommendation (or an award, where this has been made) including taking action within their own rules if necessary”. In the Government’s view this does not constitute as firm an undertaking as the TUC has given in the case of inter-union disputes where it is proposing to amend rule 12 to provide:
"Where a dispute between unions has led to an unauthorised stoppage of work, it shall be an obligation on the affiliated organisation or organisations concerned to take immediate and energetic steps to obtain a resumption of work".

The Government recognises that unconstitutional strikes are by no means always the fault of the strikers. That is why it proposes in its legislation to require management to return to the status quo where the strike is due to arbitrary unilateral action by management. But the TUC itself recognises (paragraph 24) that there are cases where good procedures exist and have not been used and where the strikers are constitutionally in the wrong and the union ought to take action to secure a return to work. However the discussion on 21st May showed that the General Council do not regard paragraph 42 as a commitment to ensure that where the TUC have recommended a return to work and persuasion by the union fails to secure this, the union will take action within its rules, including the exercise of disciplinary powers against members who remain on strike. Nor does the report provide that where a union fails to take such action, the General Council will instruct it to do so, and failing a satisfactory response, will take action against the union concerned under Congress rule 13.

5. Paragraph 42 also recognises that some unions may need to review their rules to ensure that they are in a position to comply with recommendations or awards by the TUC. Provision should in the Government's view be made to ensure that this is remedied promptly, e.g. by placing an obligation on affiliated unions, who do not already possess adequate powers, to revise their rules with a view to seeking the necessary powers within a defined period.

6. There are two further points on which the Government would welcome a more explicit statement of the General Council's plans. The first relates to the considerable additional responsibilities which the General Council's proposals for intervention, both in inter-union disputes and in unconstitutional stoppages, will place on General Council members, on the officers of affiliated organisations, and on the staff of the TUC. In the Government's view specific provision should be made to meet these heavy additional responsibilities and to establish appropriate procedures and machinery, e.g. for the conduct of enquiries.

7. The second point relates to the matters which may be covered by recommendations or awards. The General Council's report suggests that these might deal with (i) a resumption of work, and where the dispute has been caused by unilateral managerial action, a return to the status quo; (ii) the improvement of procedures, and (iii) the substantive matters at issue in the dispute. It is accepted that recommendations on (i) will be desirable in order to enable negotiations to be pursued under the agreed procedure, and that recommendations on
(ii) may be useful both for the settlement of the immediate dispute and for the longer-term improvement of relations. Is there not a risk that to the extent that TUC recommendations are concerned with the substantive matters at issue in the dispute, they may undermine the proper negotiating procedures, when in the Government's view the major emphasis of the TUC's action in unconstitutional strikes should be to secure a return to work while negotiations take place under the agreed procedures?

8. At the meeting on 21st May, it was agreed that there should be a further meeting with the General Council after the Special Congress and I understand that arrangements have now been made for this meeting to be held on 9th June. It would, I suggest, be useful then to discuss further the points set out above in the light of the Special Congress on 5th June.