

24 October 1980

PRIME MINISTER

CLOSED SHOP AND PICKETING CODES

I attach a note of our comments on the Codes.

I have not copied these to Jim Prior at this stage, but am copying this minute and the note to Geoffrey Howe.



JOHN HOSKYNS

COMMENTS ON CLOSED SHOP CODEParagraph 49 - Admission to Union Membership

Why should we enshrine in the Code the principle in 49(b) that unions can reasonably exclude potential members on the grounds that more members would pose "a serious threat of undermining negotiated terms and conditions of employment"? Of course unions often prefer to limit their numbers, in order to keep their members' price high. But why should we sanctify these efforts to prevent the labour market from working? (We understand that Equity, the National Union of Seamen and the TUC are all anxious that this should feature in the Code - despite their opposition to the Code!)

Paragraphs 54-55 - Union Disciplinary Action Against Members

The original draft Code said that unions should not discipline members for crossing picket lines. Mr Prior's note explains that a number of organisations - including the CBI - have argued that unions should not be discouraged from taking disciplinary action against members to cross official picket lines at their place of work. He proposes to adopt the CBI view. We think this goes too far. Either of the following lines would be more reasonable:

(a) As a matter of principle, the Code should enshrine the right of individuals, once they have heard what a peaceful picket has to say, to make their own free choice about whether to cross a picket line or not. The knowledge - or the threat - that an individual will be disciplined by his union for crossing the line is a form of coercion that the Government finds unacceptable. (Mr Prior has, rightly in our view, taken a similar position of principle on the need for regular review of closed shops - despite the CBI's views.)

or (b) We could concede the principle, recognising that by joining a union an individual accepts certain restrictions on his freedom. If we do this there should be two safeguards:

(i) The right of unions to discipline members in these circumstances should be conditional on the official action having been decided upon by a properly conducted secret ballot at plant level. Paragraph 54 appears to provide this safeguard. But situations could arise where the views at one plant were submerged in a wider ballot. For example, a majority of the BSC-dominated ISTC could decide, by ballot, on an industry-wide steel strike. Enough local militants could be found to mount a picket at a private sector company. The pickets could then threaten the workers with official disciplinary action if they crossed the line - even if a majority of them wanted to. The same problem could arise within multi-plant companies where a single company-wide ballot was taken.

(ii) A further safeguard would be to say that any disciplinary action taken in respect of crossing picket lines - even official ones - should fall short of expulsion.

Our own preference would be to stick to the principle in (a) above.

#### PICKETING CODE

This same matter arises in paragraph 37 of the Picketing Code. The first sentence states the correct principle. The second makes the dubious exception of the official picket line. The third implies that expulsion for crossing an official picket line would be reasonable.

MR HOSKYNS

The Prime Minister read your note of 24 October on the draft closed shop and picketing codes. As I have already told Andrew, I asked the Prime Minister if she wished me to pass these comments through to Jim Prior's office; but she replied that she did not want to "take Jim on" on too many fronts this week. I have spoken to the Treasury and told them that the Prime Minister will not be commenting, but that they should by all means make use of your comments.

T. P. LANKESTER

27 October 1980