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CABINET

MINISTERIAL COMMITTEE ON ECONOMIC STRATEGY

THE APPROACH TO INDUSTRIAL RELATIONS

Memorandum by the Secretary of State for Employment

Introduction

I was invited (E(79) 2nd Meeting) to set out my proposals for changing the balance of power in industrial relations.

2. It is important to appreciate that the shift in the balance of power is not simply the result of the legislation of the previous Administration in extending trade union rights and immunities and imposing new burdens and obligations on employers. The shift has been evident throughout the post-war period and is a reflection of more fundamental changes in society. As employers' authority has diminished, so has that of the trade unions themselves, and in particular their leaders

3. In 1971 we attempted too much. The trade union movement was able to mount an effective campaign to which virtually all strands of opinion in the movement became committed and employers were readily persuaded not to build on the protections our legislation could provide, eg legally binding contracts of employment.

4. With this in mind we are now committed to changes in the law of a more limited kind which both reflect a degree of public assent which has become evident and which can prove workable in effect. My detailed proposals for legislation this Session on picketing, the closed shop and funds for secret ballots are set out in E(79) 10. These will all help to create the conditions for adjusting the balance of power by dealing with the damaging incidence of secondary picketing, strengthening moderate opinion within trade unions and limiting the abuse of union power. I am also reviewing urgently the question of trade union immunities generally, but the proposals in the CPRS paper for the withdrawal of immunities from unions in certain circumstances (which would go very

much further than what we attempted in 1971) would, I believe, in effect lead to a fragmentation of unions' authority over their members and could well unite the trade union movement as a whole in active opposition.

5. Employers and management recognise the dangers of provoking outright and sustained opposition by the trade union movement to any changes in the law. They are concerned to see changes which they can be confident will be both practical and useful and which can command general assent. The programme I propose to adopt is the one they want.

6. More generally, it will be important that employers make full use of the proposed civil remedies against secondary picketing and other legal remedies already available to them. I intend to discuss with the CBI how this can be achieved. The CBI are themselves now discussing how employers might be encouraged to act more in concert when faced with the threat of industrial action and to provide mutual assistance in disputes. I am ready to encourage such developments.

Further proposals for legislation

7. I have already announced my intention to lay orders before Parliament to extend the qualifying period of service for complaints of unfair dismissal from 26 to 52 weeks and to reduce the statutory notification and consultation period for redundancies from 60 to 30 days. I hope that these orders will be approved before the summer recess.

8. I am also reviewing the provisions of the Employment Protection Acts generally, including industrial tribunal procedure with a view to introducing amending legislation later in this Session.

9. My present inclination is towards a straightforward repeal of s.11-16 of the Employment Protection Act 1975 which provide a statutory procedure for trade union claims for recognition. The CBI strongly favour this and ACAS itself would not be opposed to the loss of this function. Opinion within the TUC would be divided but a few unions would certainly oppose repeal. An early announcement of a decision to repeal the provisions would undoubtedly prompt the TUC to opposition. I therefore propose to start by inviting consultations on the future of these provisions without any prior commitment to action.

10. If ACAS's statutory recognition function were removed, there would, in my view, be no compelling reason for amending the general duty imposed by the Act on ACAS to encourage the extension of collective bargaining. Without the function the words would have little significance. The CBI have become committed to such a change but the TUC would be likely to carry their opposition to it to the lengths of leaving the ACAS Council. There would be no point in jeopardising the conciliation role of ACAS in this way. In any case we are ourselves committed to the concept of free collective bargaining. I would prefer therefore to explore the possibility of reviewing and then possibly expanding the terms of reference to cover the principles for promoting good industrial relations.

11. Schedule 11 of the Employment Protection Act provides for statutory arbitration at the behest of a trade union on terms and conditions of

employment. Although held to be an instrument to help the low paid, it has been used since its inception mainly as a way round pay policies. Employers and management have been critical of its effects on established pay structures and bargaining arrangements and account it inflationary. The ability of unions to obtain the general level of terms and conditions enjoyed by comparable employees of other employers has undoubtedly proved disruptive. The repeal of this particular provision would restore the position which existed under the Terms and Conditions of Employment Act 1959, which allowed claims based on national agreements only. In the absence of a pay policy few claims might then be made. It would be logical to review the Fair Wages Resolution at the same time which contains similar provisions but which is available only to employees of Government contractors. I propose therefore to consult the CBI and TUC on the basis of an intention to review the operation of Schedule 11 and the Fair Wages Resolution as a whole with the minimum aim of restricting their application to claims based on terms and conditions established by national agreements.

12. The Manifesto commits us to ensuring "that unions bear their fair share of the cost of supporting those of their members who are on strike". We agreed however that the Queen's Speech should not include an undertaking to introduce legislation on supplementary benefit for strikers in this session. I think we could contemplate putting the trade unions on notice that we will consider introducing legislation if they do not take steps to increase strike pay to a level which would significantly reduce the dependence of strikers families on supplementary benefit. Tactically I think it would be right to postpone any announcement about this until after the TUC Congress.

13. On all these issues I shall bring forward detailed proposals for decision.

14. There is also, of course, an overriding need to improve productivity. This is an area in which the major responsibility must lie with management, the role of Government being to create the right conditions for this improvement.

Conclusion

15. We must accept that there are limits to the burden that the law can carry in the field of industrial relations, important though changes will be in providing essential protections, removing evident abuses and changing attitudes in accord with public opinion. Our strategy and policies in many other areas of policy must also have effect, not least the disciplines of fiscal and monetary policies to which we are committed and the major effort we must make to educate opinion at all levels about the economic realities. We will not move to conditions of responsible collective bargaining at all quickly but the first steps I propose are all directed to this end. To go faster or further would put at risk the support we must seek to win from moderate opinion in the trade union movement itself and more generally, without making our objectives any more certain of attainment. Indeed, the objectives could be put at risk from the outset.

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J P