

Ref: A01765

PRIME MINISTER

TRADE UNION IMMUNITIES FOR SECONDARY ACTION

✓ E(80) 29

BACKGROUND

1. This paper has been circulated very late, because the last comments on the consultation paper were received (from the CBI) only on Wednesday. They represented a substantial change in the CBI's attitude, and caused Mr Prior to re-work his proposals extensively. The resulting proposals are tougher than those approved by E for the consultative document ✓ E(80) 4th Meeting, Item 1) and are not far removed from the Solicitor General's ideas developed at that meeting.

2. The timetable is very tight. Mr Prior wishes to lay the Government amendments to the Employment Bill before Easter. He has made a deal with Mr Varley, under which the Opposition will co-operate to get the Bill out of Standing Committee before Easter, provided that the Government is prepared to make three days available at Report on the floor of the House. The Chief Whip has earmarked 13-14-15 May for this purpose. Allowing for the Lords processes, this means Royal Assent at the end of July, as Cabinet agreed on 18 March. But Mr Prior wants Royal Assent by 10 July, to leave sufficient time for formal consultation with ACAS and with other interested parties before the 'Codes of Practice' come into force in September. Mr Prior's timetable would require the three Commons' Report days immediately after the Easter Break. That in turn requires final decisions next week - either at E on Monday or (cutting it very fine) at Cabinet on Thursday. The amendments would then be laid on Wednesday 2 April.

3. On the substance, there are really two options -
- to adopt the modified proposals set out in Mr Prior's paper (with any further changes which may be agreed at this meeting);
 - to go the whole hog and ban all secondary action now.

4. A total ban on secondary action would be the CBI's ideal solution, though they are afraid that to go for this in the present Bill would be counter-productive. In particular they do not want to jeopardise the emplacement of the picketing provisions in the Employment Bill before next winter. Accordingly their advice to Mr Prior is that the present Bill should be amended to include a rather tougher version of the proposals made in the consultative document and should be accompanied by a promise of a Green Paper on union immunities later this year. Mr Prior's new proposals are thought to satisfy the CBI's wishes, and the Government has of course already agreed to publish a Green Paper on immunities in general. In the light of the CBI attitude it may therefore prove relatively easy for the Committee to agree to Mr Prior's proposals. It may however be helpful to tighten up a bit on the timing of the Green Paper - eg by promising to produce it "before the end of the summer recess".

HANDLING

5. If the timetable is to be adhered to - and amendments tabled before Easter - decisions must be reached this week. If they cannot be reached at E, then Cabinet on Thursday is the last chance.

6. You might start by asking the Secretary of State for Employment to introduce his paper, and then seek comments from the Chancellor of the Exchequer, the Attorney General (invited for this item) and - on the legislative timetable - the Chancellor of the Duchy and the Chief Whip. Other Ministers will no doubt wish to join in. [We have not invited the Solicitor General to this meeting, assuming from Mr Lankester's letter of 19 February that you had released him from his special duties as a member of Mr Prior's team on the Employment Bill. Since the Attorney General, as the senior law officer, has expressed an interest in attending this meeting, we thought it right to let him come without the Solicitor - who is in many cases providing him with a brief].

would you like me
to write to Solicitor General?

He would be willing to come,
but Mr Prior would think it

probably odd after he had been
asked to be released. R 217

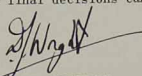
7. The essential questions before the Committee are -
- a. Are they satisfied that Mr Prior's new proposals plus a promise of a Green Paper this summer will meet the CBI's wishes?
 - b. Irrespective of the CBI, do they accept Mr Prior's new proposals as a workable package?
 - c. Can arrangements be made to meet Mr Prior's wishes on timetable, eg to achieve Royal Assent by 10 July?
 - d. Do they agree that the Government should now promise a Green Paper reviewing trade union immunities to be published say before the end of the summer recess?

CONCLUSIONS

8. Assuming all goes well, you should be able to record firm decisions as follows -

- i. that the Committee accepts the proposals in E(80) 29 on the amendments to be made to the present Employment Bill;
- ii. that arrangements should be made to enable the Bill as amended to receive the Royal Assent by 10 July;
- iii. that the Committee agrees to an early announcement of the Government's intention to publish a Green Paper on trade union immunities before the end of the summer recess.

9. Should, unexpectedly, there be significant disagreement in the Committee which cannot be resolved other than by the Cabinet, you might invite the Secretary of State for Employment to circulate a very quick paper to Cabinet setting out the opposing points of view so that final decisions can be taken on Thursday.


ROBERT ARMSTRONG

21 March 1980

(approved by Sir R. Armstrong
but signed in his absence)