Subject CONFIDENTIAL ✓ c. Sir Robert Armstrong
Mr. Wolfson
Mr. Hoskyns

NOTE FOR THE RECORD Ind Pol.

copied to: 1) Master Set
2) Nat Ind - Steel - Pt 4
3) Ind Pol - Legislation - Pt 2

Sir John Methven called on the Prime Minister at 1145 today. David Wolfson, Clive Whitmore and I were also present.

Steel Strike

Sir John referred to the ISTC threat to withdraw safety cover. He said that the threat should not be taken too seriously because it had come from an ISTC official and, at least in England, the safety work was carried out by blast-furnacemen. BSC did not believe that the blast-furnacemen would ruin their own plant. But in any case, even if they did refuse to carry out the work, it could still be done by BSC staff. The position in Scotland was more serious because the blast-furnaces there were manned by ISTC members. However, BSC's Scottish management ought to be able to cope with the situation.

Sir John went on to say that the CBI's latest assessment was that steel consuming industries could manage for another three or four weeks without suffering much damage. But BSC ought to make a major effort to settle the strike within the next two weeks. He had been in touch with Villiers and Scholey to make this point. After another two weeks, industrial opinion was likely to begin swinging in favour of a quick, costly settlement. The strike had had little effect so far because of large steel inventories and because successful of swopping arrangements (which the CBI had for obvious reasons not publicised). But the situation would change quite rapidly in another few weeks. It would then be hard for the CBI to hold their members behind the Government and BSC. If BSC had not been a member of the CBI, it would have been far more difficult to have held the membership: by keeping in close touch with Villiers and Scholey, and by enabling members to hear BSC's case at first hand, he had found it much easier than it would have been to keep them in line.

/The Prime Minister

CONFIDENTIAL

The Prime Minister asked why ACAS had not been more effective in dealing with this dispute. Sir John said that both ISTC and the blast-furnacemen were suspicious of ACAS. It was much more likely that Len Murray and other union leaders such as Moss Evans and David Basnett could help to conciliate. It was unfortunate that Len Murray had intervened prematurely early in January.

Employment Bill

Sir John said that the Employment Bill and Mr. Prior's proposal for reversing MacShane would outlaw tertiary action in all its forms, but would only outlaw secondary action in the form of picketing: in other words, sympathetic strikes, blacking and boycotting at first customer/first supplier would not be covered. He understood that, on tertiary action, the Department of Employment favoured a "territorial" test - which would expressly say that the scope of immunity was confined to employees of the party in dispute and employees of his first supplier or customer. The CBI favoured a "general objective" test on the lines used in the Court of Appeal decision on MacShane. Although this might offer less clarity, it might also - in certain cases - enable an injunction to be brought against secondary action. Both approaches were apparently included as options in the draft consultative document which Mr. Prior was planning to publish later in the week; he hoped that the Government would consider carefully before coming down in favour of the "territorial" test.

More generally, he felt that Mr. Prior's proposals went about as far as was possible in the present Bill. The objective must be to gain as much ground as possible and to make it stick. His recommendation was that the Government should push through the existing Bill with the additional clauses reversing MacShane and to follow this up with a Green Paper on all forms of secondary action and possible remedies with a view to legislating further in due course; alternatively, the Government might propose a 12 months inquiry. Before deciding to strengthen

/the Bill

the Bill either by removing union immunities or by outlawing secondary action, the following factors ought to be borne in mind.

First, consultation would be required, and - judging from the time it had taken to draft the presentation consultative document - this would take several weeks to get off the ground. All the more so since the idea of removing union immunities was a highly complex issue. It would be quite wrong not to consult with the unions and the employers on these matters, and to allow the necessary time for this would put at risk the passage of the Bill during the current session. Second, the union movement had been founded on secondary action - that was how traditionally they brought the most pressure on employers. Any further move by the Government against secondary action would therefore be bitterly opposed. Third, there were many problems in going down the union immunities route. In particular, it would often be difficult to decide when and where a union was responsible for action which had been outlawed. Before it would be possible for a plaintiff to attach union funds, it would be essential to identify this responsibility. For example, if one union official authorised unlawful strike action, while another official from the same union countermanded it, would the union be responsible? Furthermore, if employees took unofficial action against their union's instructions, this remedy would be ineffective.

Sir John said that he was not against going further: on the contrary he would in principle favour it. But it was crucial that the employers should support the Government's measures. If the Government were to announce more radical measures, he himself would support them; but he could not guarantee his membership. Their response was much more likely to be that the Government should confine any additions to the present Bill to reversing MacShane. As between outlawing all forms of secondary action and removing union immunities, he thought that the former would cause less trouble.

/The Prime Minister

The Prime Minister said that on tertiary action, the Department of Employment had indeed favoured the "territorial" test at first; but it now seemed that they were moving towards the "general objective" test favoured by the CBI. On the general question of whether the present proposals were adequate, she was more concerned than anything about the lack of adequate remedies. Recent events showed that trade unionists as individuals would not obey the law and would readily go to prison. This was why she strongly favoured making unions as institutions responsible for their members' actions. Sir John responded that there was no case in the last few years of trade unions or their members not sticking to the law. The Prime Minister commented that this was because there was, in effect, no law for them to obey. Sir John went on to say that, if there was a problem in preventing unlawful actions by individuals, the Government ought to consider making the act of picketing unlawful, just as he understood the act of squatting was unlawful. He had suggested this to the Department of Employment but they had rejected it. He understood that if an injunction were successfully brought against the act of picketing of a particular establishment, the police would then have the power to remove any pickets. The Prime Minister said that she doubted whether this was the case: since it would be a civil suit , she thought pickets would have to be removed by officers of the court.

As regards the timing of more radical measures, the Prime Minister said that there would always be a risk of confrontation with the unions. It seemed to her that it would be better to accept this risk in the coming few months rather than wait until next Autumn when the miners and others could cause the maximum disruption. It was a great pity, in her view, that the Government had not brought forward more radical proposals when the Bill was introduced: nine months had virtually been wasted in reached the present unsatisfactory juncture. The alternative to amending the existing Bill would be of course to announce that further legislation would be introduced, and to make this clear in the consultative document.