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Ref. A0711

PRIME MINISTER

Industrial Relations Legislation

(C(79) 58)

BACKGROUND

This paper is a tidying-up operation. None of the material is completely new: it has all been considered either in Cabinet, in E or in E(EA). Some of the proposals have since been modified, in the light of consultation, but the general line is familiar.

2. The timetable is now very tight indeed. Consultations with the CBI have been completed. Those with the TUC will not be formally wound up until after the TUC's Employment Policy Committee meeting, on Thursday (the same day as Cabinet). But the Secretary of State for Employment already knows the TUC line sufficiently well to predict their reactions. Cabinet must, if at all possible, take final decisions at this meeting. The complete draft Bill will then go to the Legislation Committee on 4th December, for introduction on 6th December. Unless the business of the House is further delayed, there will be a Second Reading before Christmas.

HANDLING

3. You might ask the Secretary of State for Employment to introduce the paper very briefly, but we have agreed with his office that what matters is that the Cabinet should then be taken through the paper step by step. Individual Departments have been consulted as necessary at each stage. Ministerial attitudes are generally well known, and there should not be too much trouble in getting agreement.

- (a) Individual Employee Rights: Maternity Benefits. In this case, Mr. Prior proposes a concession in favour of the mother (agreed with the employers) and proposes to drop the exemption for small firms. The original proposal came from the Secretary of State for Industry, and you will want him to confirm that he is content, albeit reluctantly, to see it drop.

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- (b) Individual Employee Rights (Others). These are listed in the Annex to the paper. They are all in line with the decisions taken in E(EA) and (in the case of the Tribunal procedures) have been agreed with the Lord Chancellor's Department.
- (c) Union Recognition Disputes. Attempts by successive Governments to rationalise the law in this area have failed, and ACAS finds the present law unworkable. The Secretary of State for Employment has abandoned the attempt to find an alternative formulation and proposes to repeal the provisions altogether. This means that there will be no law on union recognition: the whole thing is left to ordinary collective bargaining (i.e. the Grunwick case could never recur). Of all the proposals in the Bill, this will be the most unpopular with the TUC.
- (d) Statutory Extension of Terms and Conditions of Employment. This means the abolition of "Schedule 11" (of the Employment Protection Act 1975). The Secretary of State for Employment proposes to abolish the whole schedule, thereby reducing the opportunity for "leapfrogging". The BBC unions are trying to exploit it again this year, following the settlement of the ITV strike. Repeal of Schedule 11 will not, however, be complete in time to help in that case. Additionally, the Secretary of State proposes to leave the House of Commons Fair Wages Resolution until later on the grounds that it might be well to avoid stirring up this particular problem, at a time when Government Departments are proposing to contract out to the private sector a lot of work hitherto done by civil servants. Abolition of the Fair Wages Resolution at the same time might provoke unnecessary union opposition. In any case the Fair Wages Resolution is not a matter of legislation.
- (e) SLADE. At the time of the last Cabinet discussion, the Secretary of State for Employment had not formulated proposals about the SLADE-type problem (he had only just received the Leggatt Report). He now proposes to deal by legislation with cases where unions impose secondary "blacking" on firms who refuse to recognise them or

introduce closed shops. Although the problem was most acute in the printing industry, the legislation would be general. TUC opposition will focus on this proposal, particularly since all the other "immunities" provisions have been postponed (see below). But there is a pretty clear case for legislation, and Mr. Prior is prepared to ride out the TUC storm.

- (f) Trade Union Immunities. The Secretary of State for Employment had always proposed to defer a final decision about legislation on immunities until the House of Lords decision in the "MacShane" case. The decision has now been postponed until December. He therefore wants to leave any new legislative proposals until Committee Stage, with the fall-back of a separate Bill later. The Chancellor of the Duchy of Lancaster will say that there is no prospect of such a Bill in the present Session: but he will not rule out the chances of a Bill in the following Session. You will, I think, be reluctant to drop the idea of legislating on immunity in this Session. It would be too late, by the time Royal Assent is received, to make much difference to the outcome of the present wage round. But the Government is heavily committed to curtailing trade union immunities, and you will want to be seen to make some progress. Moreover, the Solicitor General (who has been involved throughout) still believes it should be possible to proceed quickly. The Lord Chancellor, I understand, disagrees with him, and although he will be reluctant to overrule the Government's Legal Adviser, he will probably suggest that it would be better to wait for the House of Lords. I think you will have to support him on this. In that case you might ask the Secretary of State to bring forward fresh proposals, to E or to Cabinet, as soon as possible after the House of Lords judgment (he promises this in paragraph 13).
- (g) Closed Shop - Conscience. You will recall the protracted and inconclusive discussion in Cabinet on 18th October. Parliamentary Draftsman has now performed a miracle of compression, by proposing that no-one should be excluded from his job who refuses to join a trade union "on grounds of conscience". The Lord Chancellor may still wish to

CONFIDENTIAL

decorate this very clear formula: if so, you might invite him to do so urgently, in agreement with the Secretary of State for Employment; otherwise the formula proposed by the Draftsman should stand.

- (h) Closed Shop - Exclusion or Expulsion. The issue here is whether people should have a right of appeal against exclusion in every case, or only where it results in loss of a job. The Secretary of State for Employment now proposes to leave the ordinary civil law to operate, except where a man loses his job. This seems reasonable: it conforms to the original Manifesto proposal.

CONCLUSIONS

4. Subject to the course of discussion, I think you should be able to record the Cabinet's approval of each of the five conclusions set out in paragraph 16 of the Secretary of State for Employment's paper.

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ROBERT ARMSTRONG

21st November, 1979