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Social Services

P.0179

PRIME MINISTER

STRIKERS AND SUPPLEMENTARY BENEFITS

To be raised orally

(Minutes of 28 November from the Secretary of State for Industry and the Chancellor of the Exchequer of 18 December, both to the Prime Minister, are relevant)

BACKGROUND

1. E(EA) has had three inconclusive discussions on this subject. However, the minute from the Secretary of State for Industry dated 28 November now reports an agreed recommendation which has been hammered out between himself and the Chancellor of the Exchequer, the Secretary of State for Employment, and the Secretary of State for Social Services.

2. The Secretary of State's minute was copied to all members of the Cabinet and a number have commented. The comments vary widely but are contained within the compass of Sir Keith Joseph's minute (your office will let you have a complete set). In addition Sir Geoffrey Howe has written clarifying the legal position on the separate but related question of tax refunds. Basically the position is that an employer can only avoid making a refund by letting the Revenue have all the information on which they could make a refund. Since the tax office would only have to write a cheque there is no legitimate scope for administrative delay - and of course the employer would have had to set up special arrangements to supply the information in the right form. So there is little scope for useful action here. And any change in the system would require main legislation, which presents its own difficulties quite apart from your own reported statement in Week-End World on 7 January 1979 that "I'm not going to pass legislation on tax rebates."

3. The commitment to take action on Strikers and Supplementary Benefit is given in the Manifesto extract attached to Sir Keith Joseph's minute.

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In theory one might pass legislation to make trade unions pay a minimum level of strike pay. (Some of the most powerful unions, eg the miners, do not pay strike pay at all.) But this would be represented as interfering in the private affairs of the unions; would be likely to arouse extreme opposition; and has not been seriously canvassed in any of the Ministerial discussions. You may wish to check whether a proposal on these lines would be acceptable to colleagues. If not then there is little choice but to act indirectly, as Sir Keith Joseph suggests, by a measure which assumes that unions, as a matter of good practice, pay a particular level of strike pay. This would be done by the Government "deeming" that level of strike pay when computing the Supplementary Benefit entitlement of strikers' families.

4. Some colleagues - particularly the Lord Chancellor - have questioned whether it is wise to proceed at all with the proposals at present. If the scheme is to proceed, the main points remaining at issue between colleagues are whether strike pay should be deemed for non-unionists, and the timing and presentation of the proposals (though the presentation of the hardship issue will be very contentious).

5. Unionists/non-unionists The arguments are summarised in Sir Keith Joseph's minute. Basically to deem that non-unionists receive strike pay will be argued to be unfair to them and will seem doubly so if those concerned are opposing strike action. Moreover it will be argued that this provision may force non-unionists to consider joining a union as an insurance policy. On the other hand, to deem that only unionists receive strike pay presents the problem of identifying who is a union member and who not (union records are often poorly kept). And unions, who will claim to be too poor to pay the strike pay at the deemed level, will say that the Government is encouraging their members to leave. (They could of course increase their subscriptions!) The administrative problem of identifying the unionist is difficult, because there will be great pressure of numbers, and the unions are most unlikely to co-operate. But officials of DHSS and DEM do not think that identification would represent an insuperable problem, provided some degree of fraud is accepted. It would of course be a criminal act for an individual to take Supplementary Benefit after a false declaration. Thus the choice here - unionist/non-unionist - is essentially one of political and presentational acceptability.

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6. You should note that the deeming would apply to official and unofficial strikes alike (since otherwise the unions would make all strikes unofficial), and also to "lock-outs" since it has, for 70 years or more, been accepted that it is not possible in settling Supplementary Benefit entitlement to distinguish between strikes and lock-outs.

7. The proposal is also that there should be no hardship provision for strikers' families who fall below the normal Supplementary Benefit levels as a result of unions not paying the deemed level of strike pay. The most that a family will be short is £10 below the normal Supplementary Benefit Requirements Level (which is accepted as being sufficient to keep the family - but not the striker - afloat for an extended period). Since the family can usually defer long-term expenditures, this may not be unreasonable - although it would give a strong propaganda card to opponents of the Government's view. (It is relevant that, in practice, the majority of families will have £4 more than the minimum level, because £4 a week of income from tax refunds is disregarded at present in settling Supplementary Benefit. However, this advantage may disappear when Short Term Benefits become taxable, depending on which system of taxation is chosen: E Committee is due to take a paper on that point early in the New Year.) The new Supplementary Benefit arrangements under the current Bill will spell out entitlement very clearly in Regulations, and the only discretion left to make payments in respect of hardship will be in respect of exceptional circumstances "unrelated to the strike"- eg fire, flood, or unexpected serious illness. Previous discussions in E(EA) have considered alternatives of making partial hardship payments, or making payments as a loan, and reclaiming them when the striker returns to work. But each have serious disadvantages. They cut at the roots of the proposal, and are administratively complex. The recommendation in Sir Keith Joseph's minute is therefore against any steps of this kind.

8. You will be aware of the leak of a Treasury brief on these issues which led to coverage in the Daily Mirror (Annex A). This gives a clear preview of the sort of press handling the proposals will face.

9. On timing, Mr St John Stevas has argued that the Government should make its position clear on the Second Reading of the Social Security Bill - which has now been brought forward to Thursday afternoon, 20 December. Mr Prior

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on the other hand, is very conscious of the controversial nature of the proposals, and would prefer more time for consultation with the unions and employers. Other colleagues have differing views on this basically political question. We understand that Mr Jenkin currently intends (in his draft speech for Second Reading) to say that the matter is still under review and that the Government will not introduce the measure without adequate time for consultation and debate in the House.

HANDLING

10. You might ask Sir Keith Joseph to remind colleagues of the proposals and then - in view of the doubts expressed by the Lord Chancellor, and perhaps by other colleagues - consider whether the Cabinet are agreed that early action is necessary. Sir Keith's minute points out that the direct effect of the proposed measures will be very small and the question is really one of influencing attitudes. If the Cabinet confirm that early action is needed, you might next seek to eliminate the tax refunds issue as a non-runner: and also remind colleagues of the alternative possibility of requiring unions to pay strike pay (a proposition which may have more supporters at the end of the discussion - given the difficulties - than at the beginning).

11. You will then want to take the Cabinet through the proposals for deeming: first through the specific proposals, and then the timing and tactics of an announcement.

12. On the specific proposals you will want individual decisions on:

a. Should strike pay be deemed for unionists only, or unionists and non-unionists alike (the politics, and your own preferences, point to the former despite the administrative complications).

b. Should strike pay be deemed for unofficial strikes and lock-outs? (unavoidable if scheme is to be workable).

c. Should the amount be set at £10 in 1980, to be increased thereafter in proportion to the increase in Supplementary Benefit? (Any higher figure would create greater problems of "hardship" - £10 is a good

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round start, and is higher than most strike pay now).

d. Should the "disregard" on strike pay be abolished? (nonsense to do otherwise).

e. Should the disregard on other miscellaneous income (eg war pensions, tax refunds, part-time earnings of the striker, and on wife's earnings) be retained as at present? (Could be altered - but it would treat strikers worse than criminals in prison, and would increase allegations of "hardship").


f. Should there be no provision for hardship payments, except in "exceptional circumstances unrelated to the strike"? (Controversial - but no alternative has been devised which would not cut away the roots of the measure).

13. Finally you might turn to the question of tactics and timing.

A number of colleagues have already indicated in correspondence that they have views on this. Mr Prior, Mr Stevas and Mr Jenkin might be asked for their views, and then other colleagues allowed to join in. If a clear decision is reached it will be for consideration whether Mr Jenkin should announce it in the debate on Thursday afternoon.

CONCLUSION

14. The conclusions will have emerged during the discussion - either for no immediate action, or for action on the itemised list of points in the previous section or for a rethink of the possibility of requiring unions to pay strike pay. You will also need a specific conclusion on what Mr Jenkin should say at the Second Reading of the Social Security Bill immediately after Cabinet and on the way in which any further consultation with the unions and employers is to be conducted.



P Le CHEMINANT

Cabinet Office

19 December 1979