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*See the letter
to the Attorney*
CONFIDENTIAL

From the Secretary of State

The Rt Hon James Prior MP
Secretary of State for Employment
Caxton House
Tothill Street
London SW1

Dear Sir

TRADE UNION IMMUNITIES

I am writing to seek your views on how best to follow up the recent E Committee discussion on trade union immunities. We accepted the tactical and Parliamentary considerations governing your wish to make the minimum amendment to the current Employment Bill. But in principle we would have preferred a more radical approach and to impose further restrictions on trade union immunities. In particular, it was noted that it might be necessary to pursue the implications of the Nawala case, and that you and I would give these further consideration; it now falls to us to carry out this mandate.

The Nawala case can be argued at two levels. I take very seriously the effect of inaction on our world-wide shipping interests. To counter increasingly protectionist trends, we are committed to the maintenance of a freely competitive shipping environment in which the world's fleets can compete on equal terms in each others ports. But under the Nawala judgement, even if there is no dispute between employer and crew, vessels can be effectively denied access to UK ports simply because they do not meet criteria established by the ITF. If this trend continues - and the Nawala judgement will encourage it - it could mean:

Prime Minister

*Mr Mott wants to deal with
Nawala-type blocking by
making almost all forms
of indirect action unlawful.
A helpful intervention since
4 February 1980. It
it supports the case for
generally toughening up the
law.*

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From the Secretary of State

- a) only high cost shipping could risk using UK ports, with consequences for the cost of our international trade;
- b) the risk of imitative or retaliatory action which could directly damage our overseas shipping interests;
- c) severe prejudice to our defence in international fora, in UNCTAD and elsewhere, of the freedom of the seas, including freedom of registration and competition for cargo; and
- d) the ship repairing industry (a Department of Industry responsibility) will be - indeed we are told is being - damaged because potential customers fear blacking.

In my view this damage to our national interests would justify legislative action for shipping alone and I would propose this if there were no alternative. But I am not at present convinced that the best way to approach the problem is to legislate narrowly. The general point of principle - the protection of the law for those not concerned in a dispute - was a fundamental point in our manifesto and is underlined by what is happening in the steel strike. I would therefore prefer to consider secondary blacking on the general principles set out in my letter of 15 January and I hope that these can form the basis for further consideration. I remain in agreement with the retention of immunity where there is a dispute between an employer and dismissed employees.

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From the Secretary of State

I therefore suggest that we proceed as follows:

- a) that in response to Parliamentary and other pressure on the Nawala case, we say that this raises wide-ranging issues which require further study before a decision is made. The Prime Minister, in the Weekend World interview in which she linked the Nawala case with the McShane Judgement as matters to be dealt with, said we would rather spend a little longer time in getting things right and our line should be that this is exactly what we are doing; and

- b) that we ask officials to prepare a paper on considerations governing legislation to remove trade union immunities from blacking activity where there is no dispute between an employer and past or present employees. This paper might cover the merits of both general legislation and action specific to shipping. We shall then be able to take the matter back to colleagues. While the timing of any announcement should be related to tactical considerations arising from the present Bill, these need not hold up further work.

I am sending copies of this letter to the Prime Minister; the Lord Chancellor; Keith Joseph, who is responsible for the ship repairing industry; Norman Fowler, in view of the relevance to port operations; Peter Carrington, who will be concerned with the international implications; David Howell, who will be interested in the potential consequences for the transport of oil; the Attorney General; the Solicitor General, other E Committee colleagues and Sir Robert Armstrong.

Fowler

John
JOHN NOTT

4 FEB 1980

