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PRIME MINISTER

EMPLOYMENT BILL

1. This Note is a follow-up to my Note to you dated 23rd May.

2. Herewith cutting from The Times dated 24th May 1980.

3. Michael Shaw raised the issue of the inadequacies of the Employment Bill at the 1922 Committee on 22nd May, at which, of course, I was not present.

4. Herewith the Notes which he used, and which he had sent to me.

5. Exceptionally, Michael Jopling was present at the 1922 Meeting last Thursday, in order to thank the troops for what they had done on the Iran Bill, and in order to answer some rumblings about "over-whipping" and the "about turn" over retrospective sanctions.

6. In addition to Michael Shaw, the following expressed serious reservations about Clause 16 of the Bill:-

Stanbrook
Bill Clark
Amery
Hastings
Gorst
Jack Page
Lawrence
Hogg

7. I spoke to the Chief Whip on the telephone on Saturday afternoon. He said that he believed that Michael Shaw had been put up to this, and that the others had joined in, at the behest of Ian Percival. I expressed surprise at this.

8. Following the 1922 Committee, Michael Jopling reported to Jim Prior on the anxieties which had been expressed; at the 1922 Committee, no voices were raised in support of Clause 16 of the Bill. All those who spoke expressed their reservations about it.

9. Michael Jopling said that Jim knew that Ian Percival was behind the voices of the dissidents.

10. The outcome is that Edward du Cann will now invite Jim Prior to address the 1922 Committee at its next meeting on 5th June.

11. It is unfortunate (but the fact) that the Chief Whip and Jim Prior realise that Ian Percival is behind the opposition to Clause 16.

12. Nevertheless, the truth is that the critics are right. I still hope that it may be possible for you, reflecting the anxiety expressed at the 1922 Committee and the information contained in my Note dated 23rd May, to ask Jim to have another look at strengthening the Bill. If he does not do so, the Government could be put in a position of humiliation next winter.

13. In that connection, I remind you of what Patrick Mayhew

said to Michael Shaw on the 17th of last month (Hansard Col. 1604):-

> "My honourable friend asked whether, because of its complicated nature, the Clause would be regarded as final. I assure him that the Clause is not necessarily final".

27th May, 1980

Ian Gow

THE TIMES 24/5/1980

Tory MPs demand tougher secondary picketing policy

By Our Political Reporter

Renewed pressure on the Government to take stronger action on secondary picketing than that contained in the Employment Bill is to be mounted by a group of Tory backbenchers after the parliamentary recess.

Mr James Prior, Secretary of State for Employment, who has had to defend his policies at various party conferences in recent weeks, is expected to be asked to attend an early meeting of the Conservative 1922 backbench committee to meet criticisms.

The critics were out in force at the 1922 Committee meeting this week when Mr Michael Jopling, the Government Chief Whip, was told that the proposals did not go far enough. He was asked to communicate their concern to Mr Prior as part of the Government's consultative process.

About eight Tory backbenchers complained that the proposed measures, contained in Clause 16 of the Bill, were not strict enough.

They pointed to the fact that labour law experts in a confidential document to the TUC, reported in *The Times*, had suggested that it could be possible for unions to achieve their objectives "without picketing other than at their members' places of work".

The backbench critics would like to see the Government table an amendment to the Bill during its passage through the House of Lords to strengthen the law on immunities.

EMPLOYMENT BILL

ANXIETIES HAVE BEEN EXPRESSED AS TO WHETHER THIS BILL GOES FAR ENOUGH.

YET - IN SPITE OF THOSE ANXIETIES - I FULLY SUPPORT THE GOVERNMENT IN ITS OWN GENERAL APPROACH AND THE BILL IS VERY MUCH TO BE WELCOMED.

HAVING SAID THAT, HOWEVER, I MUST TELL THE COMMITTEE THAT THERE IS ONE FUNDAMENTAL MATTER ON WHICH I STILL HAVE THE GRAVEST DOUBTS.

I REFER TO THE WAY THAT THE AMENDED BILL DEALS WITH SECONDARY INDUSTRIAL ACTION - NOW CLAUSE 16 OF THE BILL.

AS I UNDERSTAND IT, THE GOVERNMENT'S INTENTION IS TO FULFIL THE REASONABLE AND NECESSARY PLEDGE THAT WE GAVE AT THE GENERAL ELECTION - NAMELY, THAT WE SHALL ENSURE THAT THE PROTECTION OF THE LAW IS AVAILABLE TO THOSE NOT CONCERNED IN A DISPUTE WHO AT PRESENT CAN SUFFER SEVERELY FROM SECONDARY ACTION - BE IT PICKETING, BLACKING OR BLOCKADING.

Times
21-5-80

ordered on secondary picketing

By Paul Routledge
Labour Editor

Trade union leaders have rejected as too soft, plans produced by TUC colleagues to combat the forthcoming Employment Act. They seem intent on defying the law on secondary picketing.

A confidential policy document prepared by TUC labour law experts suggested that it could be possible for unions to achieve their objectives "without picketing other than at their members' places of work". That would be in line with government thinking.

By cooperating with other unions or groups of workers, the paper argued, "it might be possible to avoid the need for 'secondary' picketing in some cases".

That formula has been rejected by union leaders on the TUC employment policy and organization committee. They say it could be construed as conforming with the new legal curbs on industrial action being introduced by Mr James Prior, the Employment Secretary.

The section of the TUC staff paper involved has been sent back for redrafting, as has a paragraph which originally read: "In order to avoid, as far as is practicable, the need for 'secondary' or sympathy action which incurs legal liability, it will be desirable for unions to coordinate and concert negotiations and industrial action wherever possible".

The clear implication of this rejection is that the union leaders do not want to rule out the option of secondary picketing as part of their normal armoury during disputes, although the law will make much previous activity illegal in future.

The TUC document concedes that in several disputes picketing at places of work, other than the pickets' own, has been "an important tactic". Disputes involving the miners, dockers and building workers

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Bill caution by the TUC

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in 1972, lorry drivers in 1979 and steel workers earlier this year are cited. The paper adds: "Such action will become unlawful when the Bill is enacted."

Nevertheless, the TUC thinks there will still remain lawful opportunities for unions to take sympathetic or blacking action designed to increase pressure on an employer, his customers and suppliers. "Careful guidance" is being prepared on the ways that the use of such opportunities can be maximized.

Reporting on the progress of the Employment Bill, the TUC paper admits that the unions have not succeeded in deflecting the Government, and says that the legislation seems certain to get on the statute book by mid-July.

"It is also apparent that there is strong pressure within the Conservative Party for further, even more restrictive legislation, and this might be reflected in a Green Paper to be published later this year."

The unions do not want to show their hand on the full range of opposition tactics against the Employment Act, as it will become, while it is still open to amendment by the Government during its final period before Parliament. The Bill began its passage through the Lords yesterday.

The paper says: "It is crucial that the TUC, in developing a policy response to the legislation, does not do so at a time when the Bill can still be adjusted to circumvent TUC policies."

THE NEW CLAUSE DEALING WITH SECONDARY INDUSTRIAL ACTION DERIVES FROM A WORKING PAPER.

ON THAT WORKING PAPER, AN ACKNOWLEDGED LEGAL EXPERT, MR. R. J. HARVEY, Q.C., WRITING IN THE LAW SOCIETY GAZETTE - 19TH MARCH, 1980 - COMMENTED THAT THE RESULTS OF THE PROPOSALS COULD BE "POTENTIAL CHAOS, PROVIDED BLACKINGS WERE ORGANISED AND ORCHESTRATED UPON A SOPHISTICATED BASIS".

NOW I READILY ACKNOWLEDGE THAT THE NEW CLAUSE IS MUCH IMPROVED FROM THE ORIGINAL PROPOSALS CONTAINED IN THE WORKING PAPER.

BUT I AM NOT SATISFIED THAT MUCH OF THAT POTENTIAL CHAOS HAS BEEN REMOVED. LET ME QUOTE FROM THE TIMES - 21ST MAY, 1980.

AT REPORT, IN COLUMN 1523 OF THE 17TH APRIL, I SAID:-

"AS I UNDERSTAND IT, ANY FIRM THAT HAS A CONTRACT TO SUPPLY OR TO RECEIVE <u>GOODS OR SERVICES</u> TO OR FROM <u>ANOTHER FIRM THAT IS IN DISPUTE WITH ITS EMPLOYEES</u> RUNS THE RISK OF ITS OWN EMPLOYEES BEING FORCED TO TAKE INDUSTRIAL ACTION THAT WILL DAMAGE TRADE NOT ONLY WITH THE FIRM IN DISPUTE BUT WITH OTHER THIRD PARTY FIRMS, AS WELL AS CAUSING DAMAGE TO ITS OWN TRADING POSITION. HOWEVER, THAT FIRM MAY HAVE NO QUARREL WITH ITS EMPLOYEES. ITS EMPLOYEES MAY BE RELUCTANT TO TAKE ACTION, BUT MAY BE URGED BY STRONG MEANS TO DO SO. UNDER THE CLAUSE, SUCH A FIRM WOULD HAVE NO REDRESS".

I WAS TOLD THAT I COULDN'T SAY THAT!

I CAN ONLY SAY THAT I HAVE TAKEN WHAT ADVICE I COULD AS TO THE ACCURACY OF WHAT I THERE SAID AND I HAVE BEEN ASSURED THAT I AM RIGHT.

MAY I NOW TAKE ANOTHER EXAMPLE.

IN THE APRIL CONSERVATIVE NEWS, IT SAYS:-

"THERE WILL BE NO IMMUNITY FOR SECONDARY ACTION WHICH INTERFERES WITH COMMERCIAL CONTRACTS IF IT IS ORGANISED AT ANY FIRM OTHER THAN THE FIRST SUPPLIER OR CUSTOMER OF THE FIRM IN DISPUTE".

PUT THE OTHER WAY ROUND, THAT REALLY MEANS THAT, UNDER THESE PROPOSALS, THERE WILL BE <u>NO PROTECTION</u> FOR PEOPLE WHO HAVE CONTRACTS WITH AN EMPLOYER IN DISPUTE - IF IT IS THEIR OWN EMPLOYEES WHO ARE USED FOR TAKING THE SECONDARY ACTION.

LET ME PUT IT ANOTHER WAY -

IF ANY FIRM WITH WHICH I HAPPEN TO HAVE A CONTRACT FOR THE SUPPLY OF GOODS OR SERVICES HAS A DISPUTE WITH ITS WORKERS - THEN, THOUGH I HAVE NO DISPUTE WITH MY WORKERS - NOR THEY WITH ME - MY WORKERS MAY BE ORGANISED TO TAKE SECONDARY ACTION AGAINST ME - WHICH COULD CONSIST OF STRIKING, OF BLACKING OR OF PICKETING AT MY PREMISES FOR THE SPECIFIC PURPOSE OF PREVENTING OR DISRUPTING THE PERFORMANCE OF MY CONTRACT WITH THE EMPLOYER IN DISPUTE - AND I SHOULD NOT BE ABLE TO PURSUE MY COMMON LAW RIGHTS TO PROTECT EITHER MYSELF OR MY EMPLOYEES.

THE GOVERNMENT'S POLICY OF CHANGING THE LAW GRADUALLY AND AFTER FULL CONSULTATIONS DEPENDS UPON FIRST GETTING RIGHT THE BASIC ESSENTIAL CHANGES THAT WE PROMISED IN OUR MANIFESTO.

IT IS BECAUSE I PROFOUNDLY BELIEVE IN THE IMPORTANCE OF THIS BILL AND OF THOSE PROMISES THAT WE THERE MADE THAT I HAVE TO SAY TO THE COMMITTEE THAT IN THIS VERY COMPLICATED FIELD OF SECONDARY INDUSTRIAL ACTION I STILL BELIEVE THAT THE GOVERNMENT HAS GOT IT WRONG.

IF I AM RIGHT AND THE BILL IS NOT ALTERED, IT WON'T BE THE UNIONS THE PUBLIC WILL BLAME - IT WILL BE US - AND RIGHTLY SO.

PATRICK MAYHEW, THE UNDER SECRETARY OF STATE, SAID THIS TO ME ON THE 17TH APRIL, COLUMN 1604 -

> "MY HON. FRIEND ASKED WHETHER, BECAUSE OF ITS COMPLICATED NATURE, THE CLAUSE WOULD BE REGARDED AS FINAL. I ASSURE HIM THAT THE CLAUSE IS <u>NOT</u> NECESSARILY FINAL".

I BEG THE GOVERNMENT DURING THE NEXT WEEK OR SO TO HAVE ONE FURTHER LOOK AT THIS CLAUSE. WE HAVE TO GET IT RIGHT IF WE ARE TO FULFIL THE VERY PROPER PLEDGES WE HAVE MADE.

- AND WE HAVE GOT TO GET IT RIGHT <u>NOW</u> - SO THAT WE NEED NOT RELY ON PASSING FURTHER LEGISLATION AT A LATER DATE - WHICH, TO SAY THE LEAST, MAY PROVE HIGHLY INCONVENIENT AND, IN MY VIEW, HIGHLY UNLIKELY DURING THE REMAINING LIFETIME OF THIS PARLIAMENT.