OBJECT. filed. PM : PM's mtg. with Tom Boardman etc.

RECORD OF A MEETING WITH REPRESENTATIVES OF THE ASSOCIATION OF BRITISH CHAMBERS OF COMMERCE AT NO. 10 AT 1600 HOURS ON 4 JUNE 1980

Present:

Prime Minister
Secretary of State for Employment
Secretary of State for the Environment
Secretary of State for Health and Social Services
Secretary of State for Education
Mr. David Wolfson
Mr. John Hoskyns
Mr. Bernard Ingham
Mr. Tim Lankester

Mr. Tom Boardman
Mr. John Madocks
Mr. Stanley Speight
Mr. John Risk
Mr. J.R.S. Egerton

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Mr. Boardman said that the ABCC had strong views on the question of trade union immunities and legislation. They were grateful to Mr. Prior for having considered their representations, but on several matters they had not been able to convince him. There were many things in the Employment Bill which they welcomed; but there were also some important omissions which would make it much less effective in its operation than otherwise might have been. Their main disappointment was that the immunity for union funds contained in Section 14 of the 1974 Act would remain intact. Despite the restriction on the Section 13 immunities in the Bill, it would still be impossible to sue the unions for their members' actions; and as a consequence, the actions which the Bill was intended to outlaw would in very many cases continue. ABCC members were opposed to proceeding against individuals because this would create martyrs and would encourage worker solidarity. By contrast, they felt that there would be less protest if employers took out proceedings against the unions. Furthermore, there was the general point

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that, as a counterpart to the powers conferred on them by the closed shop, unions should be expected to discipline members who went against their instructions. It had been argued against this that 95 per cent of strikes were unofficial. But very often unions were conniving in unofficial strikes, and therefore in these circumstances it ought to be possible to proceed against them.

Mr. Prior said that, in his view, in most cases of unofficial strikes, the courts could not be expected to hold the union responsible. The experience of the 1971 Act showed how difficult it was to apply the concept of "vicarious liability". In most cases, therefore, even if union funds were to be put at risk, the employer's only recourse would still be the existing one of taking the individual to court. Employers were also known to be reluctant to pursue actions for damages. More generally, if the Government had tried to remove the immunity for trade union funds, this would have united the trade union movement in all-out opposition to the legislation; and this could have been very damaging indeed. The more subtle "step by step" approach was preferable; for this allowed the idea of legislation in the trade union field to grow. He did not deny that there might be individual martyrs as a consequence of the present approach (though in many cases employers could take out proceedings against union officials); but the alternative of going for union funds would have been much worse. Nonetheless, the Green Paper would discuss the whole question of immunity of union funds in detail.

Mr. Madocks said that he disagreed with Mr Prior's assessment that to have repealed Section 14 would have rallied the trade union movement against the Government. If union funds were seen to be at risk for legitimate reasons, this would be acceptable: he quoted two cases under the 1971 Act in which the unions had paid up.

/Mr. Boardman

Mr. Boardman said that the ABCC were also disappointed with the Clause in the Bill on secondary action. In their view, all secondary action should be illegal. Mr. Risk added that the Clause seemed to legitimise secondary action in a way which it had not done before. The failure to outlaw all secondary action seemed inconsistent with the Government's Election Manifesto.

Mr. Prior commented that, of course, all of the immunities, except in respect of contracts between the employer and the employee party to a dispute, could have been removed. But this would have taken the law back to what it had been before 1906, and it would have been even more restrictive than the 1927 Act. If the Government had gone down this route, again it would have caused great trouble. At the same time, critics of the Bill ought to recognise that the provisions on secondary action were more restrictive than they often thought: the immunities were confined to first customer/first supplier, and the action in question had to be targeted at the company in dispute if it were to attract immunity. It was better to legislate further if experience with the Bill proved it was necessary. The trade unions understood that the Government would be forced to go further if they tried to circumvent the Bill.

Mr. Boardman said that he was concerned about the timing of future legislation. If the Government was to wait to see what would be the experience of the existing Bill, it would be several years before anything further was done. Meanwhile, the balance of power between employers and trade unions would continue to be heavily weighted in favour of the unions; and this would make it difficult to get sensible pay settlements.

Mr. Madocks then raised the question of the closed shop. If employers and employees genuinely wanted a closed shop then they should have one. ABCC were opposed to compulsion, and they were disappointed with the relevant provisions in the Bill. Mr. Prior said that he was confident that, following the passage of the Bill, very few new closed shops would be set up; and he thought that under the proposed Code of Practice many would be renegotiated. He hoped that the ABCC would encourage their members to renegotiate.

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He also thought that the expulsion and exclusion Clauses in the Bill would reduce the power of the closed shop - and all the more so since an employer would be able to join as a party in unfair dismissal proceedings the trade union which was ultimately responsible. Compensation in unfair dismissal cases could go as high as £16,000. Mr. Boardman said that these Clauses would not be very effective because all too often it would not be possible to find clear evidence against the union. The Prime Minister commented that in-sofar as there was the right of joinder in unfair dismissal cases, the principle of taking action against the trade unions, as opposed to individuals, was already in the Bill.

Mr. Prior said that he could not publish the Codes of Practice until the Bill became law. He was quite prepared, however, to consult privately with the ABCC on their content before then.

Mr. Madocks said that the ABCC's concerns were relevant not only to the private sector but also to the public sector. With the Bill as it stood, the unions would have the potential to cause continuing large-scale disruption in the public sector.

Mr. Risk said that he hoped that the Government would in future use the phrase "industrial disruption" rather than "industrial action".

Finally, Mr. Prior said that besides dealing with the immunity of union funds, the Green Paper would cover the whole question of immunities and related issues such as compulsory ballots and union labour only contracts. He would gladly consult with the ABCC in the drafting of the Green Paper.

The meeting finished at 1700 hours.

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5 June 1980