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E(79) 3rd Meeting

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CABINET

MINISTERIAL COMMITTEE ON ECONOMIC STRATEGY

MINUTES of a Meeting held
at 10 Downing Street on
TUESDAY 19 JUNE 1979 at 10.30 am

PRESENT

The Rt Hon Margaret Thatcher MP
Prime Minister

The Rt Hon William Whitelaw MP
Secretary of State for
the Home Department

The Rt Hon Lord Carrington
Secretary of State for
Foreign and Commonwealth Affairs

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer

The Rt Hon Sir Keith Joseph MP
Secretary of State for Industry

The Rt Hon Lord Soames
Lord President of the Council

The Rt Hon James Prior MP
Secretary of State for Employment

The Rt Hon Michael Heseltine MP
Secretary of State for
the Environment

The Rt Hon John Nott MP
Secretary of State for Trade

The Rt Hon David Howell MP
Secretary of State for Energy

The Rt Hon John Biffen MP
Chief Secretary, Treasury

THE FOLLOWING WERE ALSO PRESENT

The Rt Hon Patrick Jenkin MP
Secretary of State for
Social Services

Sir Ian Percival QC MP
Solicitor General

Sir Kenneth Berrill
Head of the Central
Policy Review Staff

SECRETARIAT

Sir John Hunt
Mr P Le Cheminant
Mr P Mountfield

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1. THE APPROACH TO INDUSTRIAL RELATIONS

The Committee had before it a memorandum by the Secretary of State for Employment (E(79) 11) setting out his proposals for changing the balance of power in industrial relations.

THE SECRETARY OF STATE FOR EMPLOYMENT said that this paper provided the general background. His more detailed proposals for immediate legislation on industrial relations would be considered under Item 2. He detected no wish, on the part of the trade unions, for immediate confrontation with the Government, although in public they had to maintain a critical position. The reality was that the unions were in some disarray; uncertain of each other and of their best future course of action. In these circumstances it would be in the Government's interest to avoid proceeding in a manner which would unite the unions against them. This did not mean that the Government should abandon their objectives. But it did mean that the Government should advance cautiously, step by step, and take care that the unions had no cause for complaint over lack of consultation. The measures proposed in his other paper (E(79) 10) were not in themselves enough to alter the bargaining climate. They would however provide a foundation on which it would be possible to build further changes. While it would be important to bring legislation forward as quickly as circumstances permitted, and to incorporate in it as many as possible of the Government's immediate proposals it was essential to consult adequately with the unions before introducing the Bill. The Government's proposals which had been set out in the manifesto were not likely to be seriously resisted either by the trade unions or by the moderate wing of the Opposition. A good deal more work, and consultation, would be required before final decisions could be taken. He would bring forward specific proposals as the review of policy progressed.

The main points made in the ensuing discussion were -

- a. Decisions had already been taken on the amendment of the Employment Protection Act, and it was hoped that the necessary Order would be in place by 1 September. But there was still some doubt about the extent to which small firms in particular were inhibited by fear of legal entanglement from recruiting new staff, and there was a case for a

further look at the exemption limits. Small firms had a vital role to play in providing new employment opportunities and every effort should be made to ease their path.

b. The conciliation function of the Advisory Conciliation and Arbitration Service (ACAS) was useful both in bringing the parties in a dispute together and in insulating the Government from close involvement in particular pay disputes. Their arbitration function however was inherently inflationary and led to 'splitting the difference'. And their powers in relation to recognition of trade unions were too broad, and were biased towards recognition. The terms of reference of ACAS would need to be carefully reviewed.

c. Schedule 11 of the Employment Protection Act was an inflationary device, which ensured that, once a pay increase had been granted in one sector, it was widely copied without any attempt to match increased pay with improved productivity. This was particularly damaging in the case of loss-making nationalised industries. A review of Schedule 11 would also need to cover the future of the 'Fair Wages Resolution'.

d. The Government should seek the co-operation of chief constables in the enforcement of the present law, while recognising that they were wholly independent agents. Chief constables could not however be expected to enforce the Government's new proposals until they had been enacted by Parliament.

e. The trade unions themselves were worried about their inability to enforce procedure agreements. There was a case for making unions liable for damages where they failed to observe such agreements. Against this it was argued that to do this would put unions' funds unnecessarily at risk from the activities of extremists. The point needed further consideration.

f. Consultation should cover the independent unions not affiliated to the Trades Union Congress (TUC) and some of the larger public sector employers as well as the Confederation of British Industry (CBI).

g. It was desirable to make a further attack on restrictive labour practices as soon as possible. There was plenty of evidence available. In many cases, good management was able to eliminate such practices, but the Government might be able to help. There could also be a role for the Director General of Fair Trading. The proposed review should cover the problem in detail.

h. The question of unemployment benefit and tax rebates for strikers' families needed early consideration, and action need not necessarily be left until later in the present Parliament. There was a strong case for putting the unions on notice that the Government were considering making them bear a higher proportion of the cost of maintaining their members during a dispute.

i. The whole question of no-strike agreements should be further examined by the Departments of Employment, the Environment, Industry and Health and Social Security, together with the Home Office.

j. The suggested measures were mainly aimed at curbing the power of the trade unions. It was equally important to improve communications from management to the workforce, and in due course the Government should be ready to assist this process.

k. Because the Government's immediate proposals had been set out clearly in the manifesto, there was little room for negotiation on them. But although in these respects the process of consultation was largely a formality, it might be good tactics to ask for rather more than the unions were ready to accept, and to be prepared to concede some minor points.

l. The option of including provisions dealing with points additional to the Government's three immediate proposals (to be considered under Item 2) in a first Bill this year should be kept open. For that purpose, the process of consultations should be carried forward as quickly as possible.

THE PRIME MINISTER, summing up the discussion, said that the Committee broadly agreed the main lines of the approach to industrial relations suggested by the Secretary of State for Employment in his paper E(79) 11. The Secretary of State for Employment and the Secretary of State for Social Services should prepare a paper on benefits for strikers for consideration at an early date. The Secretary of State for Employment should now begin the process of consultation with the trade unions and employers, taking full account of the points made in the Committee's discussion. He should bring fresh proposals to the Committee in due course in the light of that consultation, and of discussions with the other Ministers concerned.

The Committee -

Took note, with approval, of the summing up of their discussion by the Prime Minister, and invited the Secretary of State for Employment to proceed accordingly.

2. INDUSTRIAL RELATIONS LEGISLATION

The Committee considered a memorandum by the Secretary of State for Employment (E(79) 10) setting out the proposals on which he intended to consult employers and unions about changes in the law on picketing, the closed shop, and on public funds for trade union ballots.

THE SECRETARY OF STATE FOR EMPLOYMENT said that he proposed to introduce the Bill in November, with a view to reaching Committee stage before Christmas. It would not be possible to proceed faster than this without curtailing the period of consultation and risking the outright opposition of the trade unions.

In discussion of the proposals on picketing, it was argued that the Government was committed to restrict the right of picketing to those involved in a dispute and to confine it to their place of work. The formula suggested in the paper for the amendment of Section 15 of the Trade Union and Labour Relations Act 1974 came as close as possible to this objective without involving serious problems of definition. Section 15 merely made picketing a lawful activity in defined circumstances; this needed to be taken in conjunction with the other provisions of existing and proposed legislation. It was thus open to an employer who suffered damage from picketing to proceed by way of injunction or an action for damages. Only if pickets deliberately defied an injunction was there any question of sanctions against individuals. In other cases, the recourse lay against the funds of the unions concerned.

Against this it was argued that the proposed formula was too permissive. It did not limit the numbers who might be involved in a picket, leaving this to a 'code of practice' which was not in itself legally enforceable, although the courts would be required to take it into account. In the case of an employer with many plants, it permitted picketing by those not employed at the site. But the unions regarded it as important to be able to picket all the premises of an employer with whom they were in dispute. Consultations with the unions might therefore begin on the basis of a proposal to limit picketing to premises where those directly involved in a dispute normally work, but it might be necessary to fall back on the formula suggested in the paper. The Secretary of State for Employment would circulate a further paper on the related question of a picket's immunity in the light of consultation.

In discussion of the proposals on the closed shop, it was argued that the suggested 'conscience clause' was insufficient protection for the man who objected to membership of a particular union, perhaps because of its political bias. The Government should seek, in consultation with unions, to secure greater protection in such cases. The proposed provisions would allow the closed shop in cases where a substantial majority of the present workforce desired it, and this had been defined in Parliament as requiring a majority of at least 80 or 90 per cent. There would have to be complete safeguards for existing members of the workforce. The continuation of a closed shop agreement should be subject to periodic review.

In further discussion of the question of finance for compulsory secret ballots it was argued that the Government should be careful not to provide funding for ballots which were not genuinely secret, or which were otherwise subject to abuse. Safeguards might need to be written into the legislation to deal with this, and it would also be necessary to limit the subjects on which publicly-funded ballots could be called to a closely-defined range of issues.

In further discussion of the timing of legislation, it was argued that the Parliamentary timetable made it desirable to include all the proposals discussed under Items 1 and 2 of the Committee's agenda in the same Bill if possible. But it was even more important to introduce the main, manifesto, proposals into the House of Commons in November, even if this means holding over the remaining proposals until later in the session. To save time it might be possible to start the second Bill in the House of Lords or alternatively to introduce the same Bill simultaneously into both Houses.

THE PRIME MINISTER, summing up the discussion, said that the Committee approved the proposals set out in the Secretary of State's paper E(79) 10. He should now begin the process of consultation with the unions, taking full account of the points made in the Committee's discussion. On the question of picketing he should seek to limit the legal right to those directly involved in a dispute picketing at their place at work, but had discretion to fall back on the wider formula proposed in his paper if this proved necessary. He should bring a further paper to the Committee on the question of immunities as soon as possible. He should bring a paper to the Committee reporting the results of his consultations and seeking policy approval for the proposed Bill in the early autumn.

The Committee -

Took note, with approval, of the Prime Minister's summing up of their discussion, and invited the Secretary of State for Employment to be guided accordingly.

Cabinet Office
20 June 1979