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PRIME MINISTER

cc. Mr. Hoskyns
Mr. Duguid

E: 30 NOVEMBER: ARBITRATION

The arguments in the Department of Employment's paper look weak. But we agree that there is no structured or statutory way in which what the employer can afford to pay can be introduced to arbitration. Arbitration is a voluntary process, which by its very nature cannot therefore be controlled by Government. If it became controlled, it would be less used, and less useful. We think therefore that the CPRS miss the point in recommending that the Department of Employment again examine how public sector employers can get affordability into arbitrators' terms of reference. Arbitrators frequently do not have terms of reference. Instead, employers should argue their affordability case forcefully as part of the evidence.

Obviously unilateral access to arbitration contradicts what should be the voluntary nature of the process, and weakens the bargaining position of the employer. Employers should be free to avoid it. If arbitration is to work, the parties to a dispute should both agree to go to it, and to be bound by the outcome. So Employment are right to ask E to focus on the particular public sector cases (paragraph 16 of the Official Paper) where unilateral access still exists.

You may want to remind colleagues that it is nearly a year since E decided (on 14 January) that the Government should consult all public service employers with the intention of withdrawing unilateral access; and that Jim Prior answered a Question on 16 January in which he said that:

"Except in special circumstances, arrangements about arbitration should provide for access to arbitration only with the consent of both sides to the dispute".

/ We think

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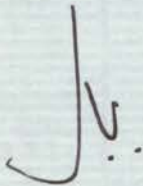
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We think that Ministers need not waste effort trying to change the arbitration arrangements in cases where we already know that they will not succeed (local authority white collar workers, the fire service, and London Transport Underground staff), nor in cases where the arrangements cause little problem (BSC and the Post Office). The main groups whose arrangements we would like to see changed are:

- (i) The university teachers, who ought to be brought in line with other teachers, whose unilateral access to arbitration was withdrawn by Mr. Carlisle earlier this year;
- (ii) Water workers, as part of our longer term approach to improving pay determining arrangements in the industry;
- (iii) British Rail, whose arbitration award, you will recall, amounted to 11% this August;
- (iv) British Telecom, where a newly established industry has the opportunity of starting with sensible arrangements.

We agree with CPRS that the best way forward would be to ask the Ministers responsible to report back to "E" by, say, the end of January.



26 November 1981

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