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6

PRIME MINISTER

Trade Union Legislation

(C(83)16)

BACKGROUND

— *Flag A*
When E Committee discussed trade union legislation on 28 April 1983 (E(83)4th Meeting), they approved the Secretary of State for Employment's proposals relating to trade union elections (subject possibly to their coming into effect within a shorter period than two years after Royal Assent) and strike ballot. They left over for further consideration two sets of issues:

i. the authorisation of a trade union's political fund and the question of whether the political levy should depend on "contracting in" rather than "contracting out";
(this, like trade union elections and strike ballots, was covered in the Green Paper)

ii. measures to prevent or deter strikes in essential services;
(this was not mentioned in the Green Paper but became a live public issue again at the time of the water strike).

They also agreed that the means and timing of announcement of the Government's further proposals on trade union legislation should be settled when the decisions on the outstanding policy issues had been taken.

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2. In his minute to you of 6 May 1983, now circulated as C(83)16, the Secretary of State for Employment deals with the issue of strikes in essential services. Having ruled out the use of criminal law, he concludes that it would not be feasible or effective to remove immunity for all forms of industrial action in essential services. He suggests that a more promising approach would be to make immunity dependent on the

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honouring of procedure agreements, and that this might apply generally instead of being confined to essential services (thus removing the problem of defining what these essential services are). He points out however that such a proposal might have only limited effect since few employers have procedure agreements covering negotiations on annual or major pay claims and where they do exist (in some parts of the public sector) they are often of little significance, and are too vague and imprecise to lend themselves easily to judicial interpretation. There is also the danger that, by making immunity dependent on the honouring of such agreements, the Government would merely encourage trade unions to withdraw from such agreements as already exist.

— *Flag C*

3. No proposals have been circulated on the political fund, and the political levy. There was however a preliminary discussion in E Committee, of which the Most Confidential Record has been made available only to you and the Secretary of State for Employment. On the political fund there was support for a proposal from the Secretary of State for Employment that trade unions should be required to hold a ballot every ten years to authorise any political fund. On the political levy the arguments were finely balanced. On the one hand it was felt that it was wrong in principle that trade unionists who did not support the Labour Party should be obliged to contribute to its funds unless they contracted out. On the other hand the abolition of contracting out would raise fundamental questions about the financing of political parties. It was however recognised that it would be difficult for the Government to avoid taking up a position since the matter had been discussed in the recent Green Paper and was already a matter of lively political debate.

4. You are having an informal meeting before Cabinet and you will no doubt wish to handle the Cabinet discussion in the light of this.

MAIN ISSUES

5. The main issues are:

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- i. whether the Government should announce proposals relating to industrial action in essential services, or should follow the approach of making immunity of industrial action generally dependent on the honouring of procedure agreements, or should do nothing in this area;
- ii. whether the Government should announce proposals relating to the political fund and/or the political levy, and what these should be;
- iii. what should be the means and timing of announcement.

Essential services: immunity dependent on honouring procedure agreements

6. The Secretary of State for Employment is lukewarm even about his preferred approach of making the immunity of industrial action generally dependent on the honouring of procedure agreements. Neither this proposal nor any of the other options relating to essential services appeared in the recent Green Paper. It would be possible to postpone a decision on whether to take action in this area until after the Election. If Ministers are not persuaded that any of the current proposals have much merit, and might indeed distract attention from the other proposals, this would probably be the best course.

Political fund and political levy

7. This is a matter essentially for political decision. The difficulty is that the Government must say either that it is taking action, that it is not taking action, or that it is not yet ready to make up its mind. It has moreover been argued that the Government could not take action in the next Parliament unless this proposal had been mentioned in the Manifesto. One option referred to at E Committee was that the Government might say that it would tolerate contracting out only if no unreasonable obstacles were put in the way of those wishing to contract out; if such obstacles continued to be erected the Government would feel free to change the system.



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Means and timing of announcement

8. Whether or not it is decided to include some or all of the proposals for trade union legislation in the Manifesto, the Secretary of State for Employment is likely to argue that the details should be set out in a Government statement in the course of this week. He will probably propose that there should be a statement in the House tomorrow (Tuesday).

HANDLING

9. You will wish to invite the Secretary of State for Employment to introduce his proposals, subject to any decisions taken at your informal meeting before Cabinet.

CONCLUSIONS

10. You will wish to reach conclusions on the following points:

- i. whether the Government should announce proposals relating to industrial action in essential services, or should follow the approach of making immunity of industrial action generally dependent on the honouring of procedure agreements, or should do nothing in this area;
- ii. whether the Government should announce proposals relating to the political fund and/or the political levy, and what these should be;
- iii. what should be the means and timing of announcement.

REA

ROBERT ARMSTRONG

9 May 1983