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bcc: Mr. Mount 14
Mr. Gregson

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10 DOWNING STREET

16 November, 1983

From the Private Secretary

Dear Barnaby,

Strikes in Essential Services

The Prime Minister held a meeting yesterday to discuss the way in which the Government should carry forward the commitment in the Manifesto to "consult further about the need for industrial relations in essential services to be governed by adequate procedural agreements, the breach of which would deprive industrial action of immunity". Present at the meeting were your Secretary of State, the Chancellor of the Exchequer, the Secretaries of State for Trade and Industry, Energy, Environment, Social Services, the Home Secretary and the Minister of State, Department of Employment. Also present were Mr. Gregson and Mr. Mount.

Introducing the discussion your Secretary of State said a number of approaches could be adopted; strikes in essential services could be criminal offences; there could be "no strike" agreements; or procedural agreements could be made enforceable by law. For a variety of reasons he thought it wrong to follow any of these courses. The best approach was to make strikes in essential services subject to loss of immunity from civil action. It was, however, difficult to justify removing such immunity in all circumstances from groups of workers who would have to be selected somewhat arbitrarily.

In his note of 14 October, his predecessor therefore had suggested making immunity for industrial action in specified essential services depend on three tests. Action should not be taken on any issue already determined by a substantive agreement during its currency; action should not be taken until all stages of any existing procedure agreement had been exhausted; there should be a minimum period of notice between deadlock in negotiation and the start of industrial action.

He envisaged that the essential services to be covered would be water, gas, electricity and the health service.

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In discussion it was pointed out that the proposals would have only limited effect where there were no existing procedural agreements. A variant of the proposals would therefore be for the legislation to set out model features which procedural agreements in essential services would have to incorporate and whose breach would trigger loss of immunity. The difficulty was that individual employers and unions might not be ready to enter willingly into agreements with such features. This meant that the legislation might in effect have to impose procedures for the essential services.

It would then be necessary to consider what the prescribed procedures should consist of. The crucial question was whether, when the procedures were exhausted, there should remain the possibility of a strike without loss of immunity. The only way of removing such a possibility would be to provide for compulsory arbitration as the final stage in the procedure.

In further discussion it was argued that it would be unwise to go as far as specifying compulsory arbitration. As the water strike had shown, such arbitration could degenerate into the final stage of negotiation and could lead to the expensive resolution of disputes. It would be wise for the Government to leave itself a loophole to be used according to the special circumstances of the dispute.

It might therefore be preferable to require compliance only with the three procedural tests envisaged in the note of 14 October or to impose procedures which merely added steps to be gone through. Although this would not preclude the possibility of strikes taking place with immunity eventually, it would raise the height of the hurdles which had to be surmounted and would provide for delay which might make it difficult for unions to sustain militancy. It might also make it harder for unions to escalate the scope and intensity of industrial action gradually. Combined with the other changes taking place in industrial relations this approach might provide sufficient protection.

Another idea suggested was that strike ballots in essential services should have a higher threshold for the required majority. The Government could also take steps to build up its ability to endure strikes. A cooling-off period was helpful in this context as it would enable preparations to be made.

On the definition of essential services, it was agreed that they should be restricted to those services which were most vital to the life and health of the nation. It might be desirable to include the fire service but it would not be desirable to include local authority services generally.

The meeting then considered the timing for resolving these issues and for the introduction of legislation. Your Secretary of State said that he envisaged a step by step approach with another trade union bill two years hence in the 1985/86 session. The effects of earlier legislation were now beginning to take effect, e.g. there were signs that the closed shop was declining in importance. The current bill would also have an impact. It would

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useful to judge the cumulative impact of these changes in deciding the next steps. If legislation were to be introduced in October, 1985, public consultation would need to be launched around October, 1984.

In addition, however, it was recognised that if there were to be a strike in an essential service in the near future the Government would want to be able to make clear quickly how it proposed to carry forward its Manifesto commitment. The right approach was therefore for the Government to complete its study of the policy as quickly as possible so that it would be ready, on a contingent basis, to make a public statement, if necessary, early in the new year but otherwise to plan for public consultation in the autumn of 1984.

Summing up, the Prime Minister said that it was agreed that the right general approach was to make immunity for industrial action in essential services depend on observance of certain procedures. It remained for consideration whether this should be confined to complying with a few basic tests on the lines envisaged in the note of 14 October or whether legislation should go further in prescribing minimum procedures for essential services and, if so, whether (despite the disadvantages noted in discussion) such procedures should include compulsory arbitration. The Secretary of State for Employment should work on these ideas and report back by the end of January. A further meeting of the same group of Ministers would then be reconvened.

I am copying this letter to John Kerr (H.M. Treasury), Hugh Taylor (Home Office), Callum McCarthy (Department of Trade and Industry), Mike Reidy (Department of Energy), Steve Godber (Department of Health and Social Security), John Ballard (Department of the Environment), Emma Oxford (Minister of State's Office, Department of Employment), Richard Hatfield (Cabinet Office), and to Mr. Gregson and Mr. Mount. Copies of this letter should be shown only to those officials whose need to see it is essential for the purpose of further work on these matters.

*Your sincerely
Andrew Turnbull*

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