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PRIME MINISTER

9 November 1984

LAW AND ORDER/PICKET VIOLENCE AND VICTIMISATION

Public Attitudes

The Daily Telegraph Gallup poll on 5 November, showed Britain leading the European crime table (Document 1). Public concern over law and order has been rising in recent months (Mori). Most anxiety has been shown about trade unions' strikes involving violence.

Options

I have discussed this matter with the Attorney General, the Home Secretary, the Director of Public Prosecutions, the Treasury Solicitor, and police sources. The Home Office is undertaking a review of public order which should be concluded in the next few months. (Interim Report, Document 2.)

The Present Position

There have been 7,579 arrests in connection with NUM picketing in the present dispute and 8,100 relevant charges (see Document 3). The most common offence listed in Document 3 is the offence contrary to Section 5 of the Public Order Act, 1936 which states:

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Any person who, in any public place or at any public meeting, uses threatening, abusive or insulting words of behaviour with intent to provoke a breach of the peace or whereby a breach of the peace is likely to be occasion shall be guilty of offence.

This widely drawn section of this Act of Parliament continues to be of great use and there is no need to change it. Certain offences have either been called in by the DPP or must be prosecuted by him, such as the explosive offences. The number that are bailed, of course, indicates the number of trials that have been deferred. It is a problem that the NUM/NCB dispute may well have ended before many of these cases will have been tried in Crown Court.

As long ago as August, West Yorkshire Magistrates Courts were bailing miners to come up at Crown Court in January and February 1985.

Couldn't we give more prominence to the number and type of cases and the progress they are making through the legal system?

Available Options in Respect of Picketing and Picketing
Violence

- a) The creation of a criminal offence of unlawful picketing:
Trade union power remains largely uncurbed in this area,
it has not been possible to bring organised mass

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picketing under full and proper control and this is partly because the criminal law, as presently constituted, is unclear about pickets. Not least, it is still not clear what police powers to pre-empt violence by turning back pickets, can be used. So some favour a new offence (see Document 4).

The Attorney General, the Home Secretary and informally, the DPP (because he has no policy responsibility) oppose this option. We would be seen to be admitting that our step-by-step approach along the path of civil law changes have failed, we might be portrayed as substituting "Tory law" for the "common law of England" in this sensitive area. Although it might make the police's job easier, in the sense of making it clear when the law was breached, we would not be helping them in their difficult job of enforcement. When picketing did occur, and when police failed to arrest the thousands on the picket line, law would be seen to be failing and foolish.

In the case of complete non-compliance by trade unions with the new requirements, we might have a situation in which all picketing was in fact unlawful. On balance, making picketing of a certain number unlawful would be very difficult to enforce and might bring the law into further disrepute. The political consequences of getting a further incursion into the law relating to trade unions wrong would be grave.

- b) To leave the law as it stands: The general criminal law has a complete range of offences against the person and no new ones are obviously needed. The Criminal Law in theory protects the right of every person to go about his lawful daily business free from interference by others. And trade union law, both as set out by Parliament and as understood by the TUC, does not permit anything except peaceful picketing. I include (Document 5) the TUC's own guidelines on their understanding of what is lawful picketing. Consequently, the next option must be to concentrate on the real problem which has, and continues to be, enforcement.
- c) To improve enforcement: Enforcement of the present law has met two practical difficulties. Firstly, the problem of gathering evidence against any individual and, in particular, those individuals who have thrown stones from behind a picket line or who have thrown bricks through windows at night. Secondly, the problem of stopping potential pickets on the way to the picket lines. There are a number of practical proposals that could be made to improve the gathering of evidence both at picket lines and to protect the victims of violence in their homes. It should be emphasised that the proposal is not to interfere with Police discretion but to proceed as the Government did after the Toxteth and Brixton riots in strengthening police equipment.

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Some Practical Proposals to Supply Equipment to Constabularies (For use subject to Chief Constable's discretion.)

- 1) Further deployment of cameras. Already cameras are being extensively used (see paragraph 6 of Document 2). (Note: In the Red Lion Square Case and two other important recent cases, photographic evidence was critical in securing convictions.)
- 2) The hoisting of cameras on mobile platforms behind police lines so as to be able to photograph stonethrowers from behind picket lines.
- 3) Adopting the new police techniques of closing with picket lines so that stonethrowers from behind will not throw missiles for fear of hitting their own men.
- 4) The computerised processing of photographs taken of violent scenes. Enquiries reveal that such a computer is currently being used by the CIA. The use of high technology to process evidence will be important for the future. The danger is that this approach may appear to be "big brother watching". This could be handled sensitively, and as the public are so incensed about the increase of crime that there could be positive welcome for it.

Victimisation

- a) To ensure, through BACM and NACODS that underground supervision and on-colliery work was so organised that the bullies are disciplined and violence is a sacking offence.
- b) To reduce the level at which criminal compensation for victims of violence is paid. At present the applicants must establish that they would be entitled to civil compensation of at least £400. This threshold could be reduced to £350 for about £8-10 million. The annual current expenditure on the Criminal Compensation Board is about £35 million. Although the Home Secretary is of the view that the Criminal Compensation Board is an area where he tries to find savings, the result is that this excellent scheme has a waiting list of over a year at present, and if miners who are victims of violence apply, they will find an even longer wait. It would seem a kind and good tactical move to do something to improve criminal compensation.
- c) To lend equipment to working miners or others fearing intimidation or criminal damage. The proposal is that newly adapted cameras with a flash attachment could be lent to people fearing violence. These could be erected temporarily on their houses where a beam or other trigger would activate by the movement of an assailant throwing a brick or other missile. This proposal can be adapted

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both for mining villages and for urban communities. This scheme would have the deterrent effect as well as the advantage of producing the necessary evidence. Cameras have been adapted to some extent in this area, though more scientific work is needed. In particular, cheap versions of the present equipment would be required and the unit would need to be fully protected and out of the reach of attack.

- d) To publicise the rights and redresses for victims of violence setting out his common law rights. Amongst these would be the civil offences that he could use. Particulars of the green form in small cases and legal aid in larger claims. This code would have the advantage of encouraging civil action. The attraction of civil cases in this area is that the defendant may be the NUM rather than the individual.

Conclusion

A public statement on law and order would be timely, though it would have to be interim ahead of the Home Office review on public order. On balance, it is not necessary to have legislation to make unlawful picketing a criminal offence. The use of high technology in the assistance of the police to recover and process evidence would assist law enforcement and should be explored further. The public would welcome some action to demonstrate the Government's concern over the victims of violence on the picket lines and in the

Continued

pit villages. This problem will continue well into next year
in the aftermath of the miners' strike.

Hartley Booth

HARTLEY BOOTH

Gallup Roll

BRITAIN HEADS THE EURO CRIME TABLE

BRITAIN is the most crime-ridden country in Europe, according to a special study conducted by Gallup International for THE DAILY TELEGRAPH.

People in 13 European countries were asked whether they had been a victim of three crimes in the last five years: home broken into, robbery or theft from themselves or other family members, and personal assault.

The following table shows the incidence of such crimes in Europe in the last five years given in percentage terms:

	Home broken into	Robbery of family member	Personal assault
Britain	16	25	5
Holland	10	30	4
France	17	17	6
Italy	13	22	4
Denmark	12	21	3
Spain	10	19	6
Switzerland	7	25	3
Sweden	6	24	3
Ireland	9	20	3
Norway	6	20	5
West Germany	7	13	2
Greece (Greater Athens)	5	12	2
Belgium	4	10	2

Gallup International also asked the same questions in nine other countries around the world and the results were:

	Home broken into	Robbery of family member	Personal assault
Columbia	33	49	18
Brazil	19	34	7
South Africa (whites)	17	29	4
Canada	13	24	4
U.S.A.	14	16	2
Uruguay	12	12	2
Turkey	6	10	8
Korea	6	14	3
Japan	3	6	1

* Rural Indian population excluded.

In Europe, Britain, therefore, is second to France on house breakings, second to Holland on robberies or thefts, and second to France and Spain on personal assaults. However, when the three crimes are totted up together, Britain heads the league.

Age pattern

Even when ranked against all the other countries world-wide in the survey, Britain comes behind only Colombia, Brazil and South Africa in the ranking for crimes.

In Britain, analysis by age shows a distinct pattern with younger adults, in particular, being most vulnerable.

Among those aged 18-34, for example, 32 per cent had had money or property stolen from themselves or a member of their household, 19 per cent

People in all the countries were also asked whether they had been a victim of any of the crimes in the last year.

The rank order of countries was similar to the previous question with Britain and France heading Europe, but still behind Colombia, Brazil and South Africa.

In Britain, 13 per cent of the general public had been robbed in the last year, 7 per cent had had their home broken into, and 2 per cent had been personally assaulted. The figures for younger adults were 18 per cent, 9 per cent, and 4 per cent respectively.

The interviewing for this study was conducted in August and September, with approximately 1,000 adults in each country. In each case the



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*Report for Home Office
 Committee - Current.*

PUBLIC ORDER: VISIT TO WEST YORKSHIRE

As you know, Robert Hazell and I visited West Yorkshire on the Thursday and Friday of last week. The main purpose of the visit was to enable us to see at first-hand, albeit fleetingly, the policing of picket lines in a region which has been the site of some considerable violence on occasion during the dispute. It gave us also the opportunity to discuss with members of the A8(3) forward Planning Unit their visits to this and other police force areas heavily affected by the strike. The A8(3) team, led by Superintendent Gavin Arnold, had received permission from ACPO to make these visits in order to see how the Tactical Options Manual would need updating in the light of the experiences in the dispute. Many of the main features they had identified fell outside that remit and, although aware that they were in a delicate position in which comparisons between forces could damage the Units credibility, they were able to give us some very useful background information at a more general level. This note records the main points which emerged from our discussions with them, as well as the more personal impressions gained from seeing the South Yorkshire and West Yorkshire police methods of dealing with picketing.

2. The picket lines we visited were at Rossington in South Yorkshire and at Woolley Colliery in West Yorkshire: we saw also the central command rooms in each police force area. Although the street lights had been put out and nails scattered on the road at Rossington, there were only 180 pickets present and there was no violent confrontation as there was at Woolley where the 1500 pickets started stoning the police once the one working miner had entered the colliery. There was, then, no direct point of comparison between the two forces, but there was nonetheless an opportunity to see how much their approaches towards the operations differed, as they did in just about every respect.

3. The West Yorkshire approach, as explained by ACC John Domaille, is based not so much on the position of police officers on the picket line during a confrontation but on reaction to them if they were to walk round pit villages singly or in small groups later the same day. This leads to low-level policing, in which no officers

from outside forces have been deployed to West Yorkshire and dogs, horses and riot equipment have been used only when trouble has arisen rather than when it might be expected. Consistent with this approach is the sense of 'fair play' towards the pickets which has led the police to inform local NUM officials when miners intend to return to work and to provide them with an opportunity to talk to working miners inside collieries (if the working miners agree) if vehicles are unable to stop at official picket lines because of the disorder that would occur. This low key attitude in which each site has a basic two PSUs (46 officers) assigned to it is in sharp contrast to the policy followed by South Yorkshire which has been the scene of more consistent and widespread violence in the dispute. There has been much mutual aid deployment and four PSUs at each site. There seemed more of a readiness to expect violence: although there was no real trouble at Rossington, a noticeable member of the officers on the road to the colliery were wearing riot helmets.

4. There was a difference also in the command structures used by the two forces. In South Yorkshire once the central command room had assigned PSUs to a particular colliery, the on-site conduct of the policing was in the charge of the pit commander, usually a superintendent. In West Yorkshire, however, once it was clear which the 'hit pit' on which the pickets were concentrating would be, a small team from the central command room, led by Mr Domaille would travel to that site to run the police operation. Each system has its own advantages: the former method leaves the control with someone who has become used to dealing with the local pickets, who knows the site itself very well and can be expected to be in a good position to judge how to handle any violence or trouble that might arise. The latter method allows the control team to build up a wealth of experience in dealing with violent picketing, and gives a personal and common approach to the policing throughout the force area. The pickets to whom A8(3) had talked in West Yorkshire expressed respect for Mr Domaille and the other senior officers and said that generally they were impressed and pleased with the way in which the dispute was being policed.

5. Both forces seemed to enjoy a close relationship with the local NCB area directors, but used the co-operation in different ways. West Yorkshire police were careful not to become too identified with the NCB while South Yorkshire used rooms on NCB property at each site as the local command centre. Each force had arranged the 'going down' times at the pits within its area with the NCB. West Yorkshire had the same time at all its pits (7.00 am) in order to stretch the resources of the pickets so that only one pit would receive a large number of demonstrators, but South Yorkshire had opted for staggered 'going down' times so that officers from the early sites could, if necessary, be redeployed at a later pit. The more general point which A8(3) had found, however, was that some forces seemed unaware of the

extent to which the NCB was willing to co-operate with the police and so had not taken full advantage of what the NCB might be prepared to do.

6. The particular point emphasised by the circumstances of the visit to Woolley colliery was the importance the police seemed to attach to being able to carry out retrospective arrests. A civilian police cameraman was filming the violence not just for training purposes but to identify and collect evidence against the leading offenders, who appeared to be relatively easy to pick out in the crowd. Also at Woolley, the police arrested someone of whom they had photographs taken at Omley moor colliery the previous day when he was apparently throwing stones at the police. At present retrospective arrest seems to be used to arrest people on picket lines for offences committed on an earlier occasion but in theory, of course, people could be arrested away from the picket line in the same way. Certainly the police seem to regard filming as the most sensible approach to evidence-gathering if disorder is still taking place.

7. More generally, although this is more of a personal view, I was struck by the relative unimportance of the legal position of the law when the violence itself was occurring. There was no doubt that far more important was the ability of senior officers to contain the situation by their deployment of the PSUs and the tactics at their disposal. For most of the time it was simply not a question of the law and although there was some considerable disorder which lasted for over an hour there were only ten arrests for public order offences. To some extent at least the arrest of certain ringleaders from the crowd served the immediate purpose of calming the demonstrators, and the question of what charges, if any, would be brought seemed of lesser significance unless serious offences were being committed.

8. The visit to Rossington highlighted different aspects of policing the strike, most noticeably because of the deployment of officers from other forces. Viewed as a way of testing the progress made in implementing the public order training programme begun after the 1981 riots, the NUM dispute showed that some improvements had been made since then. This was demonstrated in the greater ease which forces found in working together rather than in the use of particular manoeuvres from the Tactical Options Manual. There was indeed a problem with the use of specific tactics in that while there was a range of these recommended by the manual there were no compulsory manoeuvres in which all forces trained. The need for a common basis was emphasised also in the confusion that could arise from the variety of practices in seemingly minor matters. The example given to us by A8(3) was that of the radio

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codes: the same number could describe one of several different situations depending upon the force by which it was used.

9. Common and minimum standards were a major theme also in discussion of the equipment used by different forces. At Rossington we saw officers from visiting forces side by side wearing different types of riot helmets, one of which, so I understand, was markedly superior to the others. The same differences in standards were apparent in the transport provided by guest PSUs. Officers from one force had travelled in hired transit vans because the force lacked sufficient police vehicles to transport all its PSUs. This perhaps raises a more general question whether a force which does not ordinarily need much by way of public order policing equipment should be required (and if so, by whom) to provide itself with equipment which it would probably only use in support of another force on mutual aid.

10. The forces most sought-after on mutual aid were, from A8(3)'s experience, largely from the south of the country from non-metropolitan areas. The list included Cambridgeshire, Norfolk, Surrey, Avon and Somerset and West Mercia. Metropolitan PSUs were valued in violent confrontations but at other times, and these occasions were more frequent, their attitudes were thought to be harder for local people to identify with and so perhaps more likely to lead to an increase in tension. The casual approach of the Met PSUs had been a surprise to those forces which had not the same experience of public order problems being treated as everyday occurrences.

11. The most unexpected point to come out of our discussions was about the usefulness of the intercept policy at police force area boundaries. We seem to have regarded the police power to 'stop and turn back' those travelling to an area where a breach of the peace was expected as an unmixed blessing. It was suggested, however, that use of this power might create its own problems. While diverting pickets and others from the likely sites of trouble within one police force area, turning them back may merely send them to other destinations to demonstrate rather than deterring them from attending a picket line at all. The additional problem once they have been diverted is, of course, that there is no longer such good information about where they are likely to go.

12. The overall impression from the visit was that morale in both forces, and the guest PSUs, was, high: certainly there was no evidence of a defeatist approach or any reduced commitment because of the length of the strike. This suggests a general confidence in the approaches, widely differing though they are, used in both forces, and can perhaps also be traced to the more efficient and regular arrangements for

providing meals and accommodation for officers as the strike has continued. Visiting PSUs in South Yorkshire are now being housed more comfortably than they were in the earlier days of the dispute: some units, ironically, are using accommodation at a holiday camp in Cleethorpes which would normally have been used for miners' holidays all summer. There was an awareness also that when the winter arrives there will be a need to make contingency travel arrangements in case of bad weather and to equip officers with warmer and waterproof uniforms. The possibility of using holding centres as an alternative to keeping PSUs on standby was also being raised as a way of preventing lowered morale from hours of sitting crowded in transit vans. The work of A8(3) seems to have been very valuable in promoting constructive planning to cope with the possibility of the strike's continuing throughout the winter. The fact that they were asked to produce a report of what they found on their visits suggests that ACPO too is adopting a receptive and constructive approach

ALISON SMITH

6th November 1984

PERSONS ARRESTED BY CATEGORISED OCCUPATIONS

<u>NUMBER</u>	<u>OCCUPATION</u>
7,045	Miners
5	Retired Miners
4	<u>M.P.s (including MEP)</u>
14	Transport Workers incl. Coach driver H.G.V. driver Railway Worker
53	Students in Academics School/College Students/Lecturers
5	Medical Workers incl. Nurses Hospital Workers
25	Non Manual Workers incl. Planning Officer Community/Social Worker Clerks
164	Manual Workers incl. Construction Workers - Welder Labourers - Electrician Refuse Collector- Builder Industrial Worker
11	Servicemen Royal Navy - Fire Service
37	Housewives
145	Unemployed
2	Retired (Non miners)
8	Female (Other)
61	Not known/Given

} 69

APPENDIX B

NUMBERS OF ARRESTS BY TYPES OF OFFENCE

	<u>NUMBERS</u>	<u>OFFENCE</u>	
1.	3264	<u>Section 5 Public Order Act 1936</u>	
2.	1525	Obstruct Police	
3.	582	Obstruct Highway	
4.	724	Criminal Damage	
(a)	4	Criminal Damage with Intent to Endanger Life	
(b)	10	Arson	
5.	263	Assault on Police	
6.	293	Assault - Actual Bodily Harm	
7.	34	Assault - Grievous Bodily Harm	
8.	137	Theft	
9.	17	Resist Arrest	
10.	38	Offensive Weapon	
11.	226	Conspiracy and Protection of Property Act - Besetting	
12.	17	Burglary	
13.	1	Handling Stolen Property	
14.	? 1	Drug Offence	*
15.	117	Breach of the Peace	
16.	28	Breach of Bail Conditions	
17.	17	Attempt (Various Offences)	
18.	56	Drunkenness	*
19.	507	Unlawful Assembly	
20.	? 17	Railway Offences	*
21.	21	Affray	
22.	137	Riot	
23.	1	Incitement	
24.	? 14	Reckless Driving	*
25.	12	Threats/Conspiracy to Cause Damage	
26.	✓ 3	<u>Explosives Offence</u> (see note)	
27.	3	Threats to Kill	
28.	2	Unlawful Imprisonment	
29.	123	Other Offences	

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APPENDIX C

COURT SENTENCES IMPOSED

<u>NUMBER</u>	<u>SENTENCE</u>
7	Remand in Custody
47	Custodial Sentence - [Longest sentence 9 Months]
	:
6	(a) Detention Centre [Maximum 6 months]
2	(b) Youth custody Order [Maximum 6 months]
9	Detained in Police Custody - [1 day]
32	Suspended Sentence - [Longest sentence 6 Months]
	<u>Fines</u>
6	Under £10
117	£10 - £24
210	£25 - £49
283	£50 - £74
401	£75 - £99
310	£100 - £149
66	£150 - £199
118	£200 and above
5	Community Service Order [80 hours]
2	Probation Order
248	Conditional Discharge/Absolute Discharge
740	Bound Over to Keep the Peace
590	Acquitted
3276	Court Bail

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PERSONS ARRESTED PER FORCE AREA

<u>N.R.C.</u>		<u>ARRESTS</u>	<u>CHARGED</u>	<u>CASES DEALT WITH</u>	<u>ACQUITTALS</u>
<u>NO.</u>	<u>FORCE</u>	<u>CUMULATIVE TOTAL</u>			
6	CLEVELAND	58	53	55	5
7	CUMBRIA	25	5	5	0
8	DERBYSHIRE	1074	869	370	51
11	DURHAM	373	331	137	15
13	ESSEX	212	164	28	0
15	GREATER MANCHESTER	225	133	82	25
16	GWENT	145	143	87	28
17	HAMPSHIRE	11	11	0	-
19	HUMBERSIDE	94	56	22	2
20	KENT	209	198	58	13
21	LANCASHIRE	26	13	2	0
22	LEICESTERSHIRE	54	50	43	10
24	MERSEYSIDE	181	174	113	45
25	METROPOLITAN	126	109	64	11
28	NORTHUMBRIA	406	364	131	18
29	NORTH WALES	31	28	25	2
30	NORTH YORKSHIRE	137	127	84	5
31	NOTTINGHAMSHIRE	2305	1847	815	263
32	SOUTH WALES	284	281	125	19
33	SOUTH YORKSHIRE	937	880	353	61
34	STAFFORDSHIRE	371	270	224	13
38	THAMES VALLEY	3	3	0	-
39	WARWICKSHIRE	169	133	62	10
42	WEST YORKSHIRE	123	114	13	0
	<u>TOTAL</u>	<u>7,579</u>	<u>6356</u>	<u>2898</u>	<u>596</u>

The system would work like this: A person who wished to organise a picket would attend the local police station, identify himself and announce himself as the Picket Organizer. He would sign a form taking responsibility for the selection, administration and supervision of the pickets. The police would issue him with arm-bands and give him a leaflet setting out the Rules for Picketing. He would leave them with an address and telephone number. He would have a distinctive arm-band which identified him as the Picket Organizer. It would be his responsibility to ensure good order on the picket line in the first instance and to warn potential pickets of the rules. He would then issue the armbands to those he selected for the picket. Pickets would be limited to six at any given access-point. The Picket Organizer would be responsible for supervising them, liaising with the police, and ensuring that only his chosen pickets were on duty wearing their armbands.

The rules that the Picket Organizer would be given would state that no person who had not worked for a year at the premises to be picketed could act as a picket, that pickets were limited in number to six, that armbands must be worn at all times, that no threats may be made to non-strikers, and would also warn pickets of the penalties for breach of the picketing regulations. The Picket Organizer would nominate a deputy when he was off duty and inform the police accordingly.

Once the system is established it would not involve the police in much work, and work to regulate the picket would save work in coping with the consequences of a disorderly picket. Overall this system would involve less work for the police.

There would be clear individual responsibility first by the chosen pickets themselves, secondly by the Picket Organizer. In the case of official strikes he would be a union official. The law would lay down that Picket Organizers must either be employees who have worked for two years at the premises or a local union official in the case of official strikes.

If the authorized pickets misbehaved it would be easy to identify and punish the culprits. In addition action could be taken against the Picket Organizer and, in the case of official strikes, the union itself. Any other persons attempting to pose as authorized pickets or joining the picket line would be committing an offence. The Picket Organizer would be responsible for returning the armbands to the police at the end of the dispute.

There should be a further condition that lawful picketing can take place only in furtherance of a trade dispute between persons at the premises to be picketed. This rules out picketing in furtherance of secondary boycotts. This will give statutory backing (in relation to picketing) to the recent judicial decisions regarding the "remoteness test" and, in particular, to Mr Justice Ackner's judgement in *United Biscuits v. Fall* (1979).

The underlying justification for these measures is that the law should allow peaceful persuasion and information on the part of those with a legitimate interest in a trade dispute which concerns them, but should not allow outside interference, meddling in other people's disputes, or hooliganism.

What is required is a single Act dealing solely with picketing, introducing one or two new points and consolidating existing legislation and giving statutory authority to existing case law. Although the law *already* bans certain forms of behaviour such as riotous assemblies, affrays and so forth, it is desirable that Chief Constables, union officials and others who have to deal with the practical problems of picketing should have the "Do's" and "Don'ts" of picketing spelt out in one place in a modern Act of Parliament. This would have the virtue that the judges are not called upon to become embroiled in the business of developing or applying common law principles in cases where they will be accused of political bias.

Offences under the Act should be summary offences triable in a magistrates' court.

SUMMARY OF RECOMMENDATIONS

- (1) The Act should create an offence of unlawful picketing. An offence will be committed by any person who knowingly organises or participates in a picket or exhorts and incites or aids and abets any person to do so, in breach of the requirements for a lawful picket. There should be a maximum fine of £300 and 200 hours community service for a first offence and six months in prison for subsequent offence (i.e. an offence committed after *conviction* of an offence). Vehicles knowingly used for transporting persons for unlawful picketing should be liable to forfeiture. Conviction should count as an automatic five-year disqualification from any union office, from the right to organise or participate in pickets, and should provide grounds for fair dismissal from employment.
- (2) A picket will be unlawful if:
 - (a) No Picket Organizer has registered with the police and issued armbands;
 - (b) The registered Picket Organizer is not eligible to organise a picket by virtue of being neither a local union official nor employee at the premises with two years' service, or by having been convicted of any criminal offences (except minor motoring offences) within the previous five years;

- (c) The authorised pickets or some of them are likewise disqualified by virtue of a conviction;
 - (d) There are more than six pickets at any one access point;
 - (e) The pickets are not wearing armbands issued by the police;
 - (f) Threats are uttered by any of the authorized pickets to non-strikers or any person is obstructed or forcibly detained or intimidated;
 - (g) It occurs at premises other than those of the workplace at which the pickets worked prior to the dispute;
 - (h) Any violence is used by any of the authorized pickets to any non-striker or if any offensive weapon is carried;
 - (i) It concerns a dispute other than a trade dispute between those involved at the premises to be picketed.
- Any person who, not being a Picket Organizer or authorized picket, nevertheless joins a picket-line, poses as an authorized picket, or purports to picket, will commit an offence.
- Any person attempting to intercept non-strikers on their way to work or participating in a demonstration concerning any dispute within 500 yards of any access point to the premises under picket will be deemed to be picketing.

The Socialist Workers' Party has issued a leaflet "Going on Strike" which states "The heart and soul of a strike is the picket". It emphasizes the importance of numbers, "the mass picket", the importance of "the flying picket", the importance of secondary boycotts, and stresses that the picket should be an "outlet for anger". It points out that most of the laws which can be used against pickets "involve fairly minor fines" and points out that supporters can simply raise a collection to pay them. "If you get such police intervention that your picketing is made ineffective, call for a mass solidarity picket of local trade unionists". The leaflet stresses that one advantage of large numbers of pickets is that "the police cannot arrest every striker and every picket".

Our proposals put an end to this nonsense. The penalties are designed not to be draconian but to have an impact on the individual transgressor in a way that fines alone do not. They are also designed to increase to deal with the persistent trouble-maker. They are designed to introduce an element of discipline — both internal and external — to the picket-line. They catch the inciters and organizers who usually go unprosecuted at present.

Our proposals are not particularly revolutionary. They merely seek to enforce the practices which most trade unionists know as necessary for an orderly picket. Our proposals are foreshadowed in the Social Contract between the last Labour Government and the T.U.C. (The Economy, the Government and the Trade Union Responsibilities — Joint Statement by the T.U.C. and the Government, February 1979). Under the heading "Organization" (S. 13) they state: "Pickets should be advised to act in a disciplined and peaceful manner even if they are provoked. . . It will help to ensure that picketing is peaceful if an experienced member, preferably a union official, is in charge of the picket line . . . He should ensure that the number of pickets is no larger than necessary". Under the heading "Demonstrations" (S. 18), they state: "In any situation where large numbers of people with strong feelings are involved, there is a danger that things can get out of control particularly in a confined space such as access to a factory. . . It is also important that demonstrations of this kind do not convey the impression that the object is to blockade a workplace".

The established practices of good picketing are given the force of law in our proposals in order to protect the law-abiding pickets and the public in general from the abuses of a minority, usually outsiders who have no legitimate interest in the matter but who have a desire often stemming from ulterior political motives to promote discord and violence.

The picket is industrial muscle. Legal regulation of picketing will undermine its strength to some extent but it will continue to be a formidable weapon. The purpose of our proposals is to protect the rights of all parties, to prevent disorder and violence, and to prevent the balance of industrial power being unfairly tilted in favour of strikers by illegitimate forms of picketing. The "mass picket", the "flying picket", and the "secondary picket" all must become of merely historical interest.

DOCUMENT 5

UUC Guides

Negotiating
Procedures

Conduct of
Disputes

Union
Organisation



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and with due notice, in consultation and preferably by agreement with the employer, for the maintenance by their members of supplies and services essential to the health or safety of the community or otherwise required to avoid causing exceptional hardship or serious pollution.

7 Trade union members should also provide cover for the maintenance of plant and equipment essential to the functioning of the establishment and which also ensures, as far as possible, a smooth return to full production on a resumption of normal working.

8 Where livestock is involved, trade union members should also ensure that systems essential to their wellbeing continue to function and that supplies of food stuffs are maintained.

Picketing

9 The purposes of picketing are to persuade other employees to join in the withdrawal of labour; to dissuade workers recruited by the employer during a strike from entering the strikebound premises; or to establish check points to ensure that no strikers return prematurely. Picketing may also be aimed at deflecting supplies or custom from the employer in dispute. The decision to mount a picket is for the union in dispute. Unions should in general, and save in exceptional circumstances, confine picketing to premises of the parties to the dispute or the premises of suppliers and customers of those parties.

10 The right of workers to demonstrate their dissatisfaction with an employer over the terms and conditions on offer is a fundamental one. There is, however, no legal right to picket as such. But it is lawful for persons acting in contemplation or furtherance of a trade dispute to picket at or near a workplace or

any other place (except a person's home), provided they do no more than peacefully obtain or communicate information or peacefully persuade workers to abstain from work. The right to picket is subject to the following legal restrictions:

- a if pickets enter private property without permission and damage occurs, they are liable to be sued individually for trespass or collectively for conspiracy;
- b pickets may communicate or obtain information 'peacefully' but may not 'interfere' with persons entering or leaving premises. 'Interference' includes unlawful obstruction of the highway or of other users of the highway, the use of such methods as lying down in the road, linking arms to prevent the entry of lorries to premises, jostling or detaining persons entering or leaving the premises and making threats of violence or engaging in acts of violence;
- c it is unlawful for any person to use or threaten violence to a person or his family or to injure his property or to deprive him of it. In addition interference with passage on the highway may constitute a 'nuisance' in the civil law;
- d '*Hunt v Broome*' established that there is no right for a picket to stop a vehicle against the driver's will. Lawful methods of persuasion are limited to 'oral or visual methods' and do not permit pickets to commit acts such as physical obstruction of a vehicle or person;
- e the law gives the police considerable discretionary powers to decide whether the methods used by pickets are lawful in particular circumstances. In 1960 the courts supported a police officer who decided that a picket of two persons was adequate and arrested a third man on the picket line. However, on other occasions larger numbers of pickets have been allowed without police intervention. In 1966 the courts ruled that where pickets walked in a continuous circle outside a factory and refused to obey a police officer's order for them to stop, the police officer had been obstructed in the course of his duty.

18

The Independent Review Committee was established under the auspices of the Trades Union Congress and its secretariat is drawn from the staff of the TUC, but its members were appointed in consultation with the Secretary of State for Employment and the Chairman of the Advisory, Conciliation and Arbitration Service and it is completely independent in making decisions.

19

The Chairman of the Committee is Professor Lord Wedderburn of Charlton, Cassel Professor of Commercial Law at the London School of Economics. The other two members are Lord McCarthy, Fellow of Nuffield College and the Oxford Management Centre and University Lecturer in Industrial Relations; and Mr. George Doughty, formerly General Secretary of the Technical Administrative and Supervisory Section of the Amalgamated Union of Engineering Workers and former member of the TUC General Council. Enquiries should be addressed to the Secretary at Congress House, Great Russell Street, London WC1B 3LS.

20

The following procedures are part of the Committee's terms of reference:

- a the Committee must be satisfied, before considering an appeal, that an individual who has been dismissed has exhausted all internal union procedures;
- b the Committee will discuss the case with the union and the individual concerned and will try to resolve the matter by agreement;
- c if agreement cannot be reached the Committee will make a recommendation about whether or not the individual should be admitted to the union, or in the case of a member who has been expelled, whether or not he should be taken back into the union, and if so, upon what conditions. There is then a clear responsibility on the part of the union concerned to act upon such a recommendation.

During 1978, the TUC has reminded all affiliated unions of the importance of taking all steps necessary to ensure that individuals excluded from mem-

bership or refused admission in situations where trade union membership is a condition of employment are made aware of their rights both within the union and in respect of the Independent Review Committee.

22

These steps could include reminding all those concerned with admission to or exclusion from membership, particularly at branch level of the rights of appeal which exist within the union, and once the union's internal procedures have been exhausted, informing the complainants of the existence of the Independent Review Committee.

APPENDIX

The Law

1

Under the *Trade Union and Labour Relations Acts 1974 and 1976*, a closed shop or as it is legally termed — union membership agreement — is "an agreement or arrangement which

- a is made by or on behalf of, or otherwise exists between, one or more independent trade unions and one or more employers or employers' associations; and
- b relates to employees of an identifiable class; and
- c has the effect in practice of requiring the employees for the time being of the class to which it relates (whether or not there is a condition to that effect in their contract of employment) to be or become a member of the union or one of the unions which is or are parties to the agreement or arrangement or of another specified independent trade union; the references in this definition to a trade union include references to a branch or section of a trade union; a trade union is specified for the purposes of, or in relation to, a union membership agreement if it is specified in the agreement or is accepted by the parties to the agreement as being the equivalent of a union so specified."

2

A further important detail is added in the 1976 Act.

"For the purposes of this Act, employees are to be treated, in relation to a union membership agreement, as belonging to the same class if they have been identified as such by the parties to the agreement, and employees may be so identified by reference to any characteristics or circumstances whatsoever."

3

Under the 1974 and 1976 Acts, now re-enacted in Section 58(3) of the *Employment Protection (Consolidation) Act, 1978*, dismissal of an employee by an employer shall be regarded as fair if:

- a *it is the practice, in accordance with a union membership agreement, for employees for the time being of the same class as the dismissed employee to belong to a specified independent trade union, or to one of a number of specified independent trade unions; and*
 - b *the reason for the dismissal was that the employee was not a member of the specified union or one of the specified unions, or had refused or proposed to refuse to become or remain a member of that union or one of those unions;*
- unless the employee genuinely objects on grounds of religious belief to being a member of any trade union whatsoever, in which case the dismissal shall be regarded as unfair.*