

CONFIDENTIAL

9 November 1981
Policy Unit

PRIME MINISTER

MJ

Prime Minister

INDUSTRIAL RELATIONS LEGISLATION: E TOMORROW

Musa/11

1. We remain convinced that immunity for trade union funds is the key element in the package. The principle that unions are immune in all circumstances is clearly wrong. Establishing now that unions can be held responsible for unlawful acts lays an important foundation stone for a better system of industrial relations. It may be possible to build on this in future years, gradually establishing the principle that unions are accountable for the agreements they sign. But the first essential step is to create a worthwhile sanction by establishing their liability in some circumstances.
2. Critics of this reform will claim that we are putting the clock back to before 1906 - resurrecting all the anxieties raised by the Taff Vale judgment. This argument will be advanced with such ferocity that it may register in the public mind. But it is very misleading. In the interval between Taff Vale (1901) and 1906, unions were widely thought to possess no immunity at all (see paragraph 108 of the Green Paper - annexed for reference). Norman's proposals will leave them with their immunity intact in the vast majority of cases. It is only where they step outside a widely-accepted definition of what is lawful that they will lose their immunity.
3. We think that a number of colleagues did not understand this at the last meeting. Paragraph 2 of the annex to Norman Tebbit's paper does make this very clear. It is only being proposed that actions which are unlawful for individuals should be unlawful for unions too.
4. The proposed position resembles pre-1906 only inasmuch as unions will no longer have total immunity conferred then. Norman Tebbit will need the help of colleagues in explaining and defending the Government's position, to counter the all-too-predictable barrage of misinformed comment. We suggest you remind colleagues of the supportive role they will need to play in explanation, later.

I am copying this minute to Geoffrey Howe, Patrick Jenkin, Robin Ibbes and Sir Robert Armstrong.

JH
JOHN HOSKYNS

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EXTRACT FROM PARAGRAPH 108 OF GREEN PAPER ON TRADE UNION
IMMUNITIES

4 The legislators of 1906 believed that the House of Lords' judgment in the Taff Vale case of 1901 had threatened the very existence of the trade union movement by putting trade union funds at risk as a result of almost any industrial action undertaken by their officials or members.