

CONFIDENTIAL

Prime Minister

2

MS 8/2

AO

Caxton House Tothill Street London SW1H 9NA F

Telephone Direct Line 01-213 6400 GTN 213

Switchboard 01-213 3000

Rt Hon Patrick Jenkin MP
 Secretary of State
 Department of Industry
 Ashdown House
 123 Victoria Street
 LONDON SW1

8 February 1982

ms

D. Patrick,

EMPLOYMENT BILL: THE CLOSED SHOP

Thank you for your letter of 25 January about the closed shop provisions of the Employment Bill and their possible implications for small firms.

As you point out, I have made a number of changes in the Bill as published on 27 January to provide safeguards against the abuse of the closed shop provisions by employees who might be attracted by the enhanced rates of compensation. However I do not think I could go further without undermining the protection the Bill gives to the non-unionist. We must not lose sight of the fact that employers can always refuse to dismiss non-unionists and that if they feel compelled to do so by threats of industrial action they can always "join" the union concerned in any subsequent unfair dismissal proceedings, thus ensuring that the union has to pay its fair share of the compensation. If there is no pressure on the employer, then he should not dismiss the non-unionist in the first place and he has no right to complain if he has to pay compensation to the person he has sacked.

Closed shop agreements are, of course, comparatively rare in small firms and I would not therefore expect many cases of dismissal in this sector. But if we were to exempt them from the relevant provisions of the Bill we would be inviting the trade unions to concentrate their efforts on smaller businesses. I should add that organisations representing smaller businesses (eg the Association of British Chambers of Commerce) have always pressed strongly for legislative action against the closed shop.



It should not be difficult for a small employer to organise a ballot of his employees to determine whether a closed shop should or should not continue. If the closed shop is approved then a dismissal for non-membership would be unfair only in the cases specified in the 1980 Act - ie those employed before the closed shop was introduced and conscientious objectors.

On the particular suggestion you put forward in your letter I must point out that S.6 of the Employment Act which requires tribunals to take into account the size and administrative resources of the employer when deciding whether or not a dismissal is fair, does not apply to dismissals for "inadmissible reasons" including unfair dismissal in a closed shop. I think it is essential that we maintain the principle that unfair dismissals in a closed shop are unjustified whatever the circumstances.

I am sending copies of this letter to the other recipients of yours.

J. Norman



- 8 FEB 1982

2, LAD



DEPARTMENT OF INDUSTRY
ASHDOWN HOUSE
123 VICTORIA STREET
LONDON SW1E 6RB

2pps

TELEPHONE DIRECT LINE 01-212 3301
SWITCHBOARD 01-212 7676

Secretary of State for Industry

16 February 1982

The Rt Hon Norman Tebbit MP
Secretary of State for Employment
Caxton House
Tothill Street
London SW1H 9NF

Prime Minister
ms
172

Dear Norman,

EMPLOYMENT BILL: CLOSED SHOP

Thank you for your letter of 8 February about the closed-shop and small firms.

2 I entirely agree that small firms should not be exempt from these provisions. I hope, however, that industrial tribunals will take due account of the resources of the small employer at least when apportioning an award between it and the union concerned. But I am content to leave this matter entirely to your judgement.

3 I am sending copies of this letter to the recipients of yours.

Yours
Patel