



Prime Minister

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Dear Michael

EMPLOYMENT BILL: LAY-OFF PROVISION

Thank you for your letter of 8 February about the possibility of adding to the Employment Bill provisions to permit the laying-off without pay of employees who were without work because of the industrial action of others.

As you say, there are two draft Bills in existence - one covering the generality of employees and the other being limited to the civil and public services. Both Bills were designed to deal with the consequences for employers of selective industrial action by some of their employees. The Bills were therefore confined to provisions enabling employers to lay-off without pay any of their employees whose work was affected by the industrial action of other employees of the same employer or an associated employer. The Bills are necessarily of a draconian character and enable employers to lay-off their employees where their work is affected to any extent. Where the employer validly exercised the right of lay-off, statutory obligations would not be enforceable and common law rights, contractual obligations and collective agreements would be abrogated.

In answer to the Prime Minister's question, therefore, the contingency legislation was intended only to cover the circumstances of selective industrial action by employees of the same employer. This was in accordance with E Committee's remit (E(80)35th Meeting, Item 1) at the time. Nevertheless, my Secretary of State believes that it would be prudent now to work up policy proposals for similar contingency legislation to cover the other circumstance mentioned by the EEF, namely lay-off during "national emergencies" caused by strikes in key sectors of the





economy. He believes that it would be defensible to introduce such legislation at a time when it was clearly in the national interest and there was public support for it. Officials in the Department are therefore putting this in hand.

The Prime Minister also asked whether the contingency legislation already drafted could be grafted on to the existing Employment Bill without major difficulties. The contingency Bill applying to all employees runs to eight clauses and a schedule - which could be reduced to five or six clauses and a schedule as part of another Bill. There would therefore be no possibility of making provision for lay-off in the Employment Bill by simple amendments. If the substance of the contingency Bill were to be added to the Employment Bill, which now consists of 18 clauses and 3 schedules, it would therefore amount to more of a "transplant" than a "grafting".

My Secretary of State judges that it would be very surprising if the SDP came to advance amendments to the Employment Bill to provide for lay-off. If they or any Conservative backbenchers did so, however, Mr Tebbit would certainly express sympathy, but he would not wish to give them positive support in the context of the present Employment Bill. His view is that we should not depart from the conclusions reached by E Committee last October (E(81) 30th Meeting) when Ministers decided that lay-off provisions should not be included in the current legislation.

My Secretary of State has just received the letter from the Chancellor dated 17 February, and will be replying to it separately.

I am copying this letter to John Kerr (HM Treasury), Jim Buckley (Management and Personnel Office), David Heyhoe (Lord President's Office) and David Wright (Cabinet Office).

Yours

Bamshy Shaw

J B SHAW  
Principal Private Secretary



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