

cc Mr Gregson
Cabinet office

File

B/F

9/3

MR. TURNBULL

"Ban strikes in essential services, Thatcher urged" -
Headline and story in Financial Times of February 20th, 1984

1. I attach a copy of the report of the Trade Union reform committee of the CPS which was put forward for their AGM a few weeks ago. You will see that it refers back to a 1983 pamphlet but goes on to reiterate its concern about the limitation of strikes in essential services and the enforcement by law of procedural agreements.
2. I also attach an extract from a paper being produced by the Trade Union Reform Group of the CPS, drafted by Sir Leonard Neal and Lionel Bloch. This is very much a draft. I attach those parts covering the section "the case for reform".

Stephen

STEPHEN SHERBOURNE
20th February 1984

1.

TRADE UNION REFORM COMMITTEE

In the past year the Group has concerned itself with current proposals before Parliament and, even more urgently, those remedies that appear not to be under contemplation.

The Group's pamphlet, The Right to Strike in a Free Society, which was published in March 1983, embodied the main concerns of its members: the limitation of strikes in essential services and the enforcement by law of procedural agreements. The public is now so much at risk from the irresponsible exercise of trade union power in services that effect life, health and safety that the Government has, we believe, a duty to provide adequate safeguards against such abuse of power. The Group is at present expanding its analysis to include a careful and learned exposition of the present law as it affects strikes in essential services, and perhaps some consideration of less thoroughgoing solutions to the problem than those we proposed. There is a strong feeling in the Group that recent legislation on industrial relations must be implemented in full.

With regard to current proposals, while the Group welcomes the suggestions regarding balloting for union committees and union officials, we have difficulty in believing that these will solve any short-term problems of industrial relations. The Group does, however, believe that the rights of workers during industrial disruption - those of miners opposed to the present overtime ban, for instance - need protection of a kind which will not be afforded by ballots before strikes.

The Group feels that the Government has an unprecedented opportunity to complete the radical reform of trade union law, and hopes that its work will help this process.

Members of the Group

Sir Leonard Neal CBE (Chairman), Lionel Bloch, John Bowis, Michael Colvin MP, John Gorst MP, Professor Cyril Grunfeld, Graham Mather, John Wood.

And can for instance, unskilled hospital workers really be left to determine what is and is not a matter of urgency?

- ii) It is equally true, that had employers in an essential service asked the Attorney General to act under Section 5 - and had he agreed to do so - that would have been seized on to exacerbate and prolong the dispute, thus incurring larger immediate losses and subjecting the public to greater risks and inconvenience. Hence, the short-sighted preference for capitulation made palatable by the fig-leaves provided by conciliation services, committees of enquiry etc.

The trouble with this so-called "practical" approach is that the cumulative effect has been disastrous. Each concession offered to avoid or to end a strike creates a powerful precedent for further and ever increasing demands. The resulting momentum has crippled Britain's post-war economy. We have now almost reached a situation where any trade union leader in an essential service can pressurise the community and obtain excessive wage rises by a negotiating technique which consists of asking for 50% more than the maximum he hopes to get. This will usually be met by the employer making a "final" offer of roughly a third of the increase demanded and eventually, often after much argument, and some ruthless industrial action a "half-way" award will be made or a "give and take" compromise reached, by granting to those who were ready to use their industrial "clout", precisely what they hoped to get to start with.

Employees in essential services, have so often exceeded their "final" offers, that nobody takes them for more than bargaining gimmicks.

The Case for Reform

For these reasons, we would recommend that the Government should deal with the problem boldly by way of a consolidated statute that could adapt the essential provisions of the legislation on the subject from 1875 up to the Industrial Relations Act 1971.

Such an Act should first of all specifically prohibit strikes in the ambulance service, the fire brigade, hospital nurses and all medical staff, gas, water, electricity, nuclear power and sewerage services.

The first part of such an Act should deal specifically with the prohibitions. The second part should deal with the machinery for settling disputes, and set out particularly detailed provisions for compulsory arbitration, and also provide the framework for a general procedural agreement. There will always be room, within such a general framework to work out ad hoc arrangements adapted to the needs of any particular service or industry. This part of the proposed Act should also set out the penalties for infringing its provisions - including substantial fines and imprisonment. The fines should be applicable both to trade-union funds and to individuals. The Act will have to define carefully the liabilities of trade union leaders in "official actions" and ring-leaders in unofficial industrial action.

The third part of such an Act should deal with the rewards that would have to be awarded to those who would lose their right to strike.

Inevitably the list of essential services included in such legislation must have a degree of arbitrariness about it, but, whatever is arbitrary can be remedied by introducing an element of flexibility. We must bear in mind that in these days of industrial inter-dependence, workers in auxiliary services which generally speaking could not be considered an essential service, could, by withdrawing their labour, completely paralyse an essential one. This could give those working in the essential services the de facto ability to withhold their labour without exposing themselves to the provisions of the new legislation. That kind of abuse could be largely avoided by giving the Secretary of State for Employment, or some appropriate parliamentary commissions, the additional enabling power to:

- a) Declare any auxiliary service or industry (without whose labour or support an essential service cannot function), to be subject to the same restriction as the essential services already specifically designated as such in the Act.
- b) Extend the prohibition against strikes to groups of key workers in any essential service as herein defined.

This last extension is extremely important in these days of advanced technology, when a handful of skilled and specialist operators could bring an entire industry or service to a complete standstill, by withdrawing their labour. Such people should not be allowed to hold entire communities or even the nation to ransom.

The Do-Nothing School

These proposals are often opposed for a number of reasons that merit brief mention:

Thus, in the Green Paper on Trade Union Immunities, presented by the Secretary of State for Employment in January 1981, (paragraph 323) it is argued that "most people would accept that action which puts lives at risk or imperils national security, constitutes an emergency".

The Green Paper goes on to recognise that essential supplies and services to the sick have been disrupted in the past, but, "in general, workers do not go on strike or if they do so, ensure that essential services are maintained".

Whilst this has been fortunately true in some cases, there have been outstanding exceptions in these last few years, particularly during the hospital porters strike, which have been sufficiently grave to remove any complacency, and more seriously, they have shown us that much worse could happen in the future. "The bad drives out the good" in this area, even more than in others.

The question therefore arises, whether one has to wait for a serious crisis with all its dire consequences, or take preventive action when there is no major crisis, that requires emergency legislation.