



P.O. Box 7, 200 Gray's Inn Road, London WC1X 8EZ. Telephone: 01-837 1234

NOT BY SHOW OF HANDS

That section of the Trade Union Act 1984 which comes into effect today removes immunity from legal action in cases where trade unions do not hold a ballot before authorizing or endorsing a call for a strike or any other action causing workers to breach their contract of employment. A further condition of immunity is that a majority of those voting do actually vote in favour of the action. Immunity is also removed if the ballot is held more than four weeks before the strike begins.

On all these grounds the NUM, if it were today initiating its operations, would have no immunity from legal action, since it has not called for a national ballot and has even ignored those regional ones which went against it. That may seem a fairly nebulous consideration given the NUM's defiance of procedure, its existing loss of immunity for promoting secondary action and excessive picketing, and its leadership's persistent organization of criminally violent operations across the land.

But the act is very relevant to any action proposed by those members of the TUC who are now contemplating strikes by their members to lend support to the NUM. The various attempts this summer by the transport unions to dragoon their members into this battle have failed. They failed because their members do not want to lose their own jobs. They failed doubtless because those members also felt disconcerted by Mr Scargill's violent tactics. Perhaps they failed because they knew that his refusal to contemplate the closure of any pit which contained any parcel of coal, however expensive to extract, is fundamentally untenable in the world today. It is as though the tax-

payer were being asked to maintain publicly funded longbowmen, regardless of demand for longbows, as long as there were enough yew trees left standing to provide the wood.

The transport unions have tried to get round their members' reluctance by manufacturing artificial disputes with employers, in the docks and on the railways. They hoped such a ploy would excuse them from loss of immunity through pursuing secondary action. That did not work for long. Now the loss of immunity would be immediate on all grounds, unless they could cajole their members into a favourable ballot and rediscover some primary reason for withholding labour. That seems unlikely in circumstances where they are being hassled to deliver for Mr Scargill.

Loss of immunity does not, of course, mean that these unions would necessarily be sued for their actions. Among all those people and firms who have suffered from the coal strike few may have suffered from the effects of secondary action. Small businesses in Yorkshire, for instance, are being fiercely squeezed. They are casualties of the strike through no fault of their own. Do we hear of any campaign for special help for the corner shops in mining communities? There is no evidence that they receive rate or mortgage holidays with which some strikers have so far been endowed.

The NUM has not been immune from its secondary action against, for instance, suppliers of coal and iron ore to British Steel. However, British Steel has demurred, and it has been left to the haulage firms to take the NUM to court.

This legislation has already been denounced by the unions as

an intolerable intrusion into their procedures. There is more to come in the form of secret ballots for the election of officials and a review of the mechanism for raising political contributions from members. None of this imposes on the union any greater discipline than that required of firms under the weight of much company legislation, and few firms anyway have the power to wreck so many other people's lives by their decisions.

The claim to immunity from the laws which affect the rest of society applies uniquely to trade unions. Nothing like it has been witnessed since the Church had its immunity in the middle ages. But the habits of privilege ingrained over 78 years, since the Trades Dispute Act of 1906, will not easily be broken down, particularly when they are combined with monopoly power within the economy. Then they are almost impregnable. That can be seen by the innate strength of the NUM even though Mr Scargill is leading a fiercely divided and unhappy union.

In the next phase of its union legislation this government should start to consider the concept of "rights" for trade unions, clearly defined and bestowed by law, in place of immunity from other laws. This thinking has already been raised by Sir John Donaldson, the Master of the Rolls, in a lecture last year. It would help to remove the attitude of being above the law which is so persistently and arrogantly put forward by trade union leaders today. Their negative attitude to the legislation which restores some control of their unions to the rank and file tells its own story of where these men stand in relation to real trade union democracy.

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