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MR TURNBULL

26 September 1984

TRADE UNION ACT 1984

at X For the NCB to use the 1984 Act the NUM must make a new exhortation which is likely to materially influence the union member. The Solicitor General's example goes considerably further, suggesting it should change the status quo, eg stiffen up the strike. I wonder if this is necessary.

It could be argued that each new day a man turns up for work and is turned away at the picket line is a new act which has clearly influenced his behaviour.

Alternatively we could argue every time a new person tries to go to work, or each time the picketing is materially increased or moves to a new location (whether or not it has been picketed in the past) is a new act.

*If provided it
the union
could be
shown to have
organised it*

The Solicitor General argues that the ruling in Boulting v. ACTAT prevents a union member from bringing an action against his own union, as he should resist its blandishments "by strength of will".

Clearly, "strength of will" has been insufficient on its own to penetrate the physical barrier of a mass picket. Doesn't he have an action as the union has procured other members to

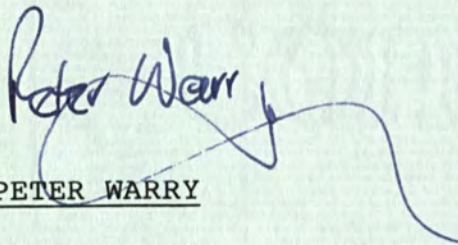
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bar his path even though his own "strength of will" remains undiminished?

Conclusion

Risk cannot be eliminated from any legal action and the Solicitor General naturally has to be cautious. Ideally we would like union members to make the attempt, but if not, it may still be worth the NCB trying and being seen to try.



PETER WARRY

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