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MR. MOUNT

British Rail

Yesterday's Meeting of Ministers did take the decisions that were needed on the ~~financial~~ ^{financial} aspects of the forthcoming strike: to stop the PSO grant, to authorise increased short-term borrowing, and to postpone the increased oil burn for a period of two weeks to see to what extent the NUM would be prepared to co-operate in accelerated road deliveries of coal.

But Ministers also went off - largely at the Prime Minister's insistence - on two unexpected tangents:

(i) Mr. Whitelaw was given a remit to examine urgently our ability to cope with extended simultaneous industrial action on the railways and the tubes, in the light of the unexpectedly thorough disruption of the underground this week. Accordingly there will be a meeting of the Civil Contingencies Unit under the Home Secretary's chairmanship tomorrow afternoon, which I will attend.

(ii) The Chancellor was told to investigate whether BR would be on a sound legal basis if they were to impose flexible rosters on ASLEF, given the existence of the 1919 agreement guaranteeing a 40 hour week. I have been engaged in discussions most of today on that point, the outcome of which will be a note from the Chancellor to the Prime Minister in time for Cabinet on Thursday. In short, the unions could claim breach of contract under common law, against which British Rail would have no adequate defence since they would have altered drivers' terms of service without their agreement; but BR could move to dismiss those who refused to work the new rosters, and provided they had given reasonable notice - about 12 weeks - they could mount a defence on the grounds that the new rosters did in fact represent reasonable terms of service, since they had already successfully argued to the RSNT that they would in fact benefit the drivers. But there would be no certainty of the outcome.

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I have been arguing that at some point it will be necessary for BR to give notice of intention to withdraw altogether from the 1919 agreement, and this may well prove to be part of the outcome of the strike. The latest position on the strike itself is that neither BR nor the NUR made any significant move today, and the strike is expected to start at the beginning of next week. It is highly unlikely that ASLEF will be prepared to cross NUR picket lines in order to sit idly for eight hours and thus earn their pay packets, so both ASLEF and the NUR will probably be out at the same time.

John Vereker

22 June 1982

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