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cc J.V 7

Prime Minister

(1)

P.0806

MR SCHOLAR

BRITISH RAIL

Yes
MS

It would make no sense for BRB to lay off NUR if it is known that the courts will find against them. Agree? But if the government tell BRB this BRB may think we are weakening, and subsequently blame us for it. Nevertheless X seems right. Agree? It seems incredible if BRB are absolutely prevented from laying off NUR in a prolonged strike. Content to allow matters to

With the Chancellor of the Exchequer's agreement, I am sending you this brief note so that the Prime Minister will know how things stand on British Rail following this afternoon's meeting of MISC 80.

2. There are two main current issues for decision:

develop as envisaged in Mr Grayson's note?
Yes
MLG 9/7

i. the dismissal of ASLEF members who have been and are on strike (and any NUR members not turning up for work) combined with an undertaking to re-engage them if they report for work on Monday 19 July;

ii. lay-off of NUR members turning up for work.

3. On i. it has now been established that there is no legal difficulty about what the BRB have in mind, so long as they dismiss all those who have been at any time away from work since this particular dispute began, and so long as the offer of re-engagement is open to all those dismissed on the same terms and for a reasonable time (ie the offer will have to remain open for some days after 19 July). The BRB's present intention, subject to approval by their Board on Tuesday morning, is to send out the dismissal and re-engagement letters that day.

4. On ii. the Prime Minister will recall from Mr Howell's report to the Cabinet yesterday that the BRB's original intention was to reconsider the lay-off of NUR members in the light of how many ASLEF members responded to the dismissal threat and turned up for work on Monday 19 July. At that point a week's notice of lay-off might be issued to NUR members. Mr Howell reported to MISC 80 this afternoon that the BRB's latest thinking was to synchronise the notice of lay-off with the action against ASLEF; the notice of lay-off would be given to NUR members on Wednesday to take effect from Wednesday 21 July.



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5. MISC 80 was not convinced that this latter proposal was sound. As the Prime Minister is already aware, most Ministers are uneasy about the merits as well as the timing of action to lay off NUR members. The main difficulty is that the legal advice available to the Government is that the BRB can be sued for the wages of NUR employees turning up to work because of the 1919 Guaranteed Week Agreement. It is thought that a declaration to this effect could quickly be obtained in the High Court. There would therefore be no financial benefit from laying off NUR members and the BRB (and indirectly the Government) would lose public credibility. The BRB Board believe that the courts might be persuaded that there were mitigating circumstances so that the liability for damages would at least be less than the full cost of the wages. The Attorney General is not however convinced by this and the matter is to be further explored.

6. Principally in order to buy more time, Mr Howell, who is due to see Sir Peter Parker again on Monday evening will, while giving full backing for the proposed action against ASLEF, express doubts about the timing of the proposed lay-off of NUR members and will hope to persuade Sir Peter Parker at least to reconsider reverting to the earlier timetable so that further points can be explored.

7. Concern was expressed that the BRB might see this as a wobbling in Government support for the Board, but MISC 80 felt that it should be possible to avoid giving this impression, especially in view of the Government's backing for the ASLEF dismissals.

8. MISC 80 will be meeting again on Tuesday. It will consider, inter alia, what the alternatives might be to the BRB's breaching the 1919 Agreement, including the possibility of emergency lay-off legislation before the summer recess.

Ag

P L GREGSON

9 July 1982

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10 DOWNING STREET

From the Private Secretary

12 July 1982

British Rail

As you know, Mr. Gregson of the Cabinet Office sent, with the Chancellor's agreement, a brief note on how things stood on British Rail following Friday afternoon's meeting of MISC 80.

The Prime Minister was grateful for this report of the conclusions of MISC 80. She will be grateful to be kept closely in touch.

I am sending a copy of this letter to Peter Gregson (Cabinet Office) and to Anthony Mayer (Department of Transport).

M. C. SCHOLAR

John Kerr, Esq.,
HM Treasury.

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