



3. In respect of both (ii) and (iii), the latest thinking represents a drawing back from the BRB's ideas of last Friday. On (iii) it is welcome that the BRB have now faced up fully to the legal problems over the 1919 Agreement and accept that there might be political and presentational disadvantages in withholding pay from NUR members willing to work. We were however concerned about the thinking on (i) and (ii).

4. Our first concern was that, following the widely publicised threats of dismissal of ASLEF strikers, the BRB would lose public credibility if it were now being seen to back away from such action. Their reasoning was apparently that ASLEF, over the weekend, managed to rally support from the TUC and the Labour Party (including Mr. Foot and Mr. Booth) on the grounds that this was no longer a straightforward industrial dispute but rather a Government inspired attack on ASLEF as part of a wider onslaught on the trade union movement. We were unconvinced by this reasoning and felt that it ought to be possible for the BRB to present the ASLEF dismissals as an inevitable management response to an industrial situation.

5. Our second concern, on a more detailed aspect of this issue, was that the BRB were contemplating that, if and when they went ahead with dismissals, they would not, after all, act strictly within the present law by dismissing all who were and had been on strike, but would dismiss only those on strike at the time. It was not clear to us why the BRB should want to face the risks of findings of unfair dismissal before an Industrial Tribunal. The problem of not punishing those who came back to work could be dealt with by presenting the package of dismissal and reinstatement to the small number of individuals concerned and explaining to them personally why the matter had to be handled in this way.

6. Our third concern was that it was not clear exactly what was meant by closing down the railways, what were the benefits of such a course, and how far it would be understood by the public. The intention was apparently to close down the railways entirely except



for essential maintenance work. The benefit would be that it would save the BRB between £5 million and £11 million a week largely on overtime and enhanced payments. It would however mean withdrawing those services still being maintained including some, for example, on the London commuter network, which are of value to the public. The public might not understand why the BRB were prepared to withdraw such services although they still had to pay the bulk of the wages of the employees concerned. It might also be badly received by the railwaymen who had kept the services running, and might mean that it was more difficult for ASLEF members eventually to drift back to work.

7. The Secretary of State for Transport will therefore be talking to Sir Peter Parker before this morning's full meeting of the BRB to explain our concerns. While stressing the Government's continued support for the BRB, and making it clear that the Government has no wish to interfere in detailed tactics, he will point to the advantages of an approach based on the following principles:

- (a) To meet the public's needs by keeping the railways running as far as is practicable;
(this may point to keeping some sections of the network in operation where worthwhile services can be maintained; if the point was raised, it could be made clear that the Government might be prepared to consider payment of some proportion of the Public Service Obligation Grant in respect of such services);
- (b) to deal firmly with those taking strike action;
(this would mean inevitably at some stage the sanction of dismissal, purely on management grounds);
- (c) to encourage those willing to work both by keeping open sections at least of the network if practicable
(as at (a) above) and by not seeking to deprive them

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of wages to which they are legally entitled, (this should include seeking to suspend the 1919 Agreement by convening the Joint Committee provided to consider such proposals, and taking full advantage of the presentational opportunities this affords but, assuming that the Joint Committee did not agree to suspend the 1919 Agreement, not risking challenge in the Courts).

8. It remains to be seen what line the BRB will put out publicly following the Board meeting later today.

9. We went on to consider whether, as an alternative to BRB action on lay-off in breach of the 1919 Agreement, the Government might reconsider the possibility of legislation to provide that any employer might lay off employees for whom there was no work as a result of industrial action by his own employees. Such a Bill has been prepared and could be ready for introduction within 24 hours. To secure the enactment of such a Bill before Parliament rose for the summer recess would however create immense problems for the timetables of both Houses and would have serious consequences for the rest of the legislative programme. We considered that this course would in any case be politically unattractive and decided that it was not a useful option in present circumstances.

10. We have arranged a further meeting of MISC 80 to review the position before Cabinet on Thursday.

11. I am sending copies of this minute to the Home Secretary, the Secretaries of State for Transport, Social Services and Employment, the Chancellor of the Duchy of Lancaster, the Attorney General, Mr. Sparrow and Sir Robert Armstrong.

John Jenkins

for G.H. (Approved by the Chancellor & signed in his name)
13 July 1982