

Prime Minister

MR SCHOLAR

Ms. 24/11

cc Mr Mount
Mr Ingham

CABINET: WATER WORKERS' PAY

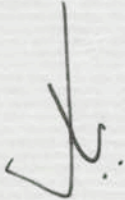
No doubt Mr Heseltine will be reporting to Cabinet tomorrow the position in the water workers' pay dispute, following rejection by the Unions of the 4% offer, and the reluctance of ACAS to start the process of arbitration.

I think it is of great importance that the employers are encouraged to stick to their 4% offer, and that any inclination on their part to increase it to the 5-6% range be firmly opposed by Ministers. We must get the handling of this potentially dangerous dispute right: and whether or not the arbitration process gets under way, it is best that the offer remains 4%:

(i) Clearly if ACAS do agree to arrange arbitration, there is a reasonable chance of a (binding) award of around 6%, in the face of which it would be enormously difficult for the Unions to take serious industrial action;

(ii) And if ACAS continues to be reluctant to intervene, the employers must stand firm so as to intensify the pressure on ACAS. The Prime Minister should I think know that Ferdie Mount and I are concerned about ACAS' apparent refusal to arrange arbitration, even though the Unions and the employers signed an agreement under which either party could ask ACAS to do so. We find it difficult to understand why no-one realised earlier (ie when the 4% tactic was agreed) that ACAS would claim that the 1975 Act enabled them to intervene only with the consent of both parties; and we find it difficult to believe that ACAS did not consent to their being included in the water workers' arbitration

agreement in this way. At least on the surface, it looks to us as though ACAS are hiding behind the small print of the legislation (I attach a copy of the relevant part of the Act, appropriately sidelined) in order to preserve their credibility with the Unions. In short, they may be waiting for the employers to increase the offer. We certainly do not like unilateral access to arbitration, but it has been used so often to the advantage of the Unions (ie in the case of the local authority white collar workers) that we don't see why it should not occasionally work to the advantage of the employers.



24 November 1982



Employment Protection Act 1975

1975 CHAPTER 71

AN Act to establish machinery for promoting the improvement of industrial relations; to amend the law relating to workers' rights and otherwise to amend the law relating to workers, employers, trade unions and employers' associations; to provide for the establishment and operation of a Maternity Pay Fund; to provide for the extension of the jurisdiction of industrial tribunals; to amend the law relating to entitlement to and recoupment of unemployment benefit and supplementary benefit; to amend the Employment Agencies Act 1973 as respects the exercise of licensing functions under that Act; to amend the Employment and Training Act 1973 as respects the status of bodies established, and the powers of the Secretary of State, under that Act; to amend the Health and Safety at Work etc. Act 1974 as respects the appointment of safety representatives, health and safety at work in agriculture, the status of bodies established and the disclosure of information obtained under that Act; to provide for the extension of employment legislation to certain parliamentary staff and to certain areas outside Great Britain; and for connected purposes.

[12th November 1975]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Part III

E

PART I

MACHINERY FOR PROMOTING THE IMPROVEMENT OF INDUSTRIAL RELATIONS

Advisory, Conciliation and Arbitration Service, etc.

Advisory,
Conciliation
and
Arbitration
Service.

1.—(1) There shall be a body to be known as the Advisory, Conciliation and Arbitration Service, in this Act referred to as "the Service".

(2) The Service shall be charged with the general duty of promoting the improvement of industrial relations, and in particular of encouraging the extension of collective bargaining and the development and, where necessary, reform of collective bargaining machinery.

(3) The provisions (so far as applicable) of Parts I and III of Schedule 1 to this Act shall have effect with respect to the Service.

Conciliation

2.—(1) Where a trade dispute exists or is apprehended the Service may, at the request of one or more parties to the dispute or otherwise, offer the parties to the dispute its assistance with a view to bringing about a settlement.

(2) The assistance offered by the Service may be by way of conciliation or by other means, and may include the appointment of a person other than an officer or servant of the Service to offer assistance to the parties to the dispute with a view to bringing about a settlement.

(3) In exercising its functions under subsection (1) above, the Service shall have regard to the desirability of encouraging the parties to a dispute to use any appropriate agreed procedures for negotiation or the settlement of disputes.

(4) The Service shall designate officers of the Service to perform the functions of conciliation officers under any enactment (including any provision of this Act or any Act passed after this Act) in respect of matters which are or could be the subject of proceedings before an industrial tribunal, and accordingly any reference in any such enactment to a conciliation officer is a reference to an officer designated under this subsection.

Arbitration.

3.—(1) Where a trade dispute exists or is apprehended the Service may, at the request of one or more parties to the dispute and with the consent of all the parties to the dispute, refer any or any of the matters to which the dispute relates for settlement to the arbitration of—

- (a) one or more persons appointed by the Service for that purpose (not being an officer or servant of the Service); or

(b) the Central Arbitration Committee constituted under section 10 below.

PART I

(2) In exercising its functions under subsection (1) above, the Service shall consider the likelihood of the dispute being settled by conciliation and, where there exist appropriate agreed procedures for negotiation or the settlement of disputes, shall not refer a matter for settlement to arbitration under that subsection unless those procedures have been used and have failed to result in a settlement or unless, in the opinion of the Service, there is a special reason which justifies arbitration under that subsection as an alternative to those procedures.

(3) Where in any case more than one arbitrator is appointed under subsection (1)(a) above the Service shall appoint one of the arbitrators to act as chairman.

(4) An award by an arbitrator appointed under subsection (1)(a) above may be published if the Service so decides and all the parties consent.

(5) Part I of the Arbitration Act 1950 shall not apply to an arbitration under this section.

(6) In the application of this section to Scotland, references to an arbitrator shall be construed as references to an arbiter.

4.—(1) The Service shall, if it thinks fit, on request or otherwise, provide, without charge, to employers, employers' associations, workers and trade unions such advice as it thinks appropriate on any matter concerned with industrial relations or employment policies, including the following—

- (a) the organisation of workers or employers for the purpose of collective bargaining;
- (b) the recognition of trade unions by employers;
- (c) machinery for the negotiation of terms and conditions of employment, and for joint consultation;
- (d) procedures for avoiding and settling disputes and workers' grievances;
- (e) questions relating to communication between employers and workers;
- (f) facilities for officials of trade unions;
- (g) procedures relating to the termination of employment;
- (h) disciplinary matters;
- (i) manpower planning, labour turnover and absenteeism;
- (j) recruitment, retention, promotion and vocational training of workers;
- (k) payment systems, including job evaluation and equal pay.