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E(81) 36th Meeting

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CABINET

MINISTERIAL COMMITTEE ON ECONOMIC STRATEGY

MINUTES of a Meeting held at
10 Downing Street on
MONDAY 30 NOVEMBER 1981 at 4.30 pm

PRESENT

The Rt Hon Margaret Thatcher MP
Prime Minister

The Rt Hon William Whitelaw MP
Secretary of State for the Home Department

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer

The Rt Hon Sir Keith Joseph MP
Secretary of State for Education and
Science

The Rt Hon Peter Walker MP
Minister of Agriculture, Fisheries
and Food

The Rt Hon Michael Heseltine MP
Secretary of State for the
Environment

The Rt Hon Patrick Jenkin MP
Secretary of State for Industry

The Rt Hon John Biffen MP
Secretary of State for Trade

The Rt Hon David Howell MP
Secretary of State for Transport

The Rt Hon Leon Brittan QC MP
Chief Secretary, Treasury

The Rt Hon Baroness Young
Chancellor of the Duchy of Lancaster

The Rt Hon Nigel Lawson MP
Secretary of State for Energy

The Rt Hon Norman Tebbit MP
Secretary of State for Employment

The Rt Hon Cecil Parkinson MP
Paymaster General

THE FOLLOWING WERE ALSO PRESENT

The Rt Hon George Younger MP
Secretary of State for Scotland

The Rt Hon Norman Fowler MP
Secretary of State for Social Services

Mr J R Ibbs
Central Policy Review Staff

SECRETARIAT
Sir Robert Armstrong
Mr P L Gregson
Mr D J L Moore

SUBJECT

ARBITRATION ARRANGEMENTS IN THE PUBLIC SECTOR

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ARBITRATION ARRANGEMENTS IN THE PUBLIC SECTOR

Previous Reference: E(81) 1st Meeting, Item 4

The Committee considered Memoranda by the Secretary of State for Employment (E(81) 114) and by the Central Policy Review Staff (CPRS) (E(81) 120) on arbitration arrangements in the public sector.

THE SECRETARY OF STATE FOR EMPLOYMENT said that his Department had reviewed the latest position on arbitration in the public sector. While formal arbitration arrangements were widespread the extent to which they were used varied. There was, however, a risk that unions would seek arbitration more often as a way of getting round the constraints of cash and external financing limits. In his view, employers could rarely be justified in asking third parties to determine their pay bill, and in general arbitration was best avoided. He recognised, however, that there could be particular situations where arbitration might be better than a damaging strike. The crucial issue was the question of access. The Committee had agreed last year that the arrangements for each public sector group should, except in special circumstances, provide for arbitration only with the consent of both sides. Paragraph 16 of the report by officials, attached to E(81) 114, listed those groups where further action was necessary to meet this objective. It was important that where an employer chose to go to arbitration he should agree suitable terms of reference and, where appropriate, ensure that the arbitrator was in a position of being able to take into account what could be afforded. He was opposed to seeking to impose statutory duties on arbitrators. He did not agree that the terms of reference for an arbitration should always take account of what the employer could afford; in some public sector undertakings, particularly the monopolies, this could open the way to settlements higher than justified.

MR IBBS said that the CPRS endorsed the general approach proposed by the Secretary of State for Employment. If the risk of potentially embarrassing unilateral access was to be removed, action should be taken urgently in those cases identified by the Department of Employment. In general, the CPRS recommended that in competitive parts of the public sector arbitration should be avoided, as it was in the private sector, and that elsewhere it should be regarded only as a last resort. Subject to the reservation made by the Secretary of State for Employment, employers should be encouraged to insist that the terms of reference

took fully into account what they could afford to pay. In looking at the present arrangements it would be unwise to give weight to claims that even though an employer had agreed to arbitration the outcome was not legally binding on him; in practice the outcome would be binding.

In discussion of the public sector groups listed in paragraph 16 of the report attached to E(81) 114, the following were the main points made -

a. It was agreed that it was unnecessary for the time being to change the present arbitration arrangements for university teachers. The finances of the universities were now subjected to tight cash limits. The present independent Chairman of Committee A, which formulated joint proposals from employers and employees, was unlikely to seek recourse to arbitration.

b. There remained little early prospect of persuading employers to try to remove the rights to unilateral access to arbitration of local authority white collar staff and craftsmen, of firemen and of London Transport Underground Staff. Many local government employers, particularly the Labour controlled authorities, would be opposed to any such change. The best course was to wait for a further suitable opportunity, perhaps in discussions of the 1982 pay settlement, to reopen this question with the employers.

c. It was agreed that, while the Secretary of State for Energy was in discussion with the Chairman of the British Gas Corporation on a number of wide-ranging issues on the future of the industry, it would be inopportune to invite the Corporation to consider seeking to change the arrangements for arbitration in the gas supply industry.

d. Neither the employers nor the employees were likely to welcome any attempt to end unilateral access to arbitration in the water industry. The opportunity might, however arise to make the necessary legislative changes as part of the Bill which was likely to be introduced in the 1982-83 Session to change the structure of the industry.

e. It was unsatisfactory that the public sector bus companies were required to pay wages not less favourable than those paid by other employers in the industry, and that the unions had unilateral access to arbitration on the issue. This was inconsistent with the repeal, in the Employment Act 1980, of Schedule 11 of the Employment Protection Act 1975. Urgent consideration should be given to changing these arrangements as soon as possible either in one of the Transport Bills in the 1981-2 session or in industrial relations legislation.

f. It was agreed that the Chairmen of British Rail, of British Telecom, and of the British Steel Corporation (BSC) should each be asked to reconsider the arrangements in their industries; in the case of BSC, where the arbitration arrangements were ^{dominant} dominant, the Chairman might advise that it was better to leave well alone.

THE PRIME MINISTER, summing up the discussion, said that the Committee endorsed the general approach to arbitration arrangements in the public sector recommended by the Secretary of State for Employment. Where employers agreed to go to arbitration they should be encouraged, as a general but not invariable rule, to insist that the terms of reference ensured that the arbitrator took fully into account what the employer could afford to pay; where there was a choice, care should be taken to appoint arbitrators who would give due weight to this factor. It was not practicable to change forthwith the present arrangements in all the groups listed in paragraph 16 of the report by officials, attached to E(81) 114, but the Committee had agreed that the arrangements for a number of the groups should be further examined and that the outcome should be reported in January. In looking at these groups, the Ministers concerned should recognise that where employers agreed to arbitration the outcome would usually be binding on them, in practice if not in law.

The Committee -

1. Took note, with approval, of the Prime Minister's summing up of their discussion.
2. Agreed that no further action should be taken for the time being on the arbitration arrangements for university teachers and for workers in the gas supply industry.
3. Invited the Secretary of State for the Environment -
 - i. to consider further whether the arrangements for workers in the water industry should be changed in legislation in the 1982-83 Session;
 - ii. to discuss further with the local government employers, when a suitable opportunity arose, the arrangements for local authority employees.
4. Invited the Secretary of State for Industry to discuss further with the chairmen concerned the arrangements for arbitration in the British Steel Corporation and in British Telecom, and to report on the outcome in January 1982.
5. Invited the Secretary of State for Transport -
 - i. to discuss with the Chairman of British Rail the arrangements for arbitration in his industry and to report on the outcome in January 1982;
 - ii. in consultation with the Secretary of State for Employment, to make proposals as soon as possible for the introduction of amending legislation, either in a Transport Bill or in industrial relations legislation, for changing the present requirement about minimum wages, and the arrangements for arbitration, in the bus industry.

Cabinet Office
1 December 1981