

This minute suggests an approach to the discussion at E Committee tomorrow.

1. BACKGROUND - THE BILL IN PERSPECTIVE

- 1.1 Britain's Establishment is still basically defeatist on trade union reform. It is essential we keep the problem in perspective. All other countries have a proper legal framework. Opinion polls show that the public favours the same. Establishment members communicate to each other the fear of another "Union Victory". Only political leadership can break out of it.

1.2 CBI and Industry

- 1.2.1 Methven is bound to be cautious. Big industrialists know we've got to crack the problem but fear the pain of doing so. Little ones know they've got fight or they'll be bankrupted. It's just the same as people wishing Government would end inflation, but not liking the idea of a monetary squeeze. Industrialists are not leaders in this context. They are followers.
- 1.2.2 CBI seems to be edging to the Right every time it meets to discuss this issue. CBI is not homogeneous. Some CBI members will take advantage of extra legislative powers, others won't. It's up to them. But at least they will have the chance.

1.3 The trade union debate never happened

- 1.3.1 The real reason why the Establishment are so nervous is that the debate which would have captured the groundswell of opinion never took place. It still hasn't begun because Jim Prior himself, for whatever reason, always refused to lead that debate. If he wouldn't even participate (let alone lead) it was difficult for a credible debate to start.
- 1.3.2 We've never even had the debate properly among colleagues, with no holds barred. So we still have a position where although you see a clear long-term objective, no-one at the Department of Employment is doing any work towards it. If we can't have uncomfortable argument, we can't get the real answers. But it must be rational. We mustn't allow it to degenerate into

stone-walling or huffing and puffing as it tends to do.

1.4 We must not lose sight of the strategy

1.4.1 Previous notes have set the broader strategic context. But it's worth remembering that the changes we're now contemplating could significantly reduce the power of the NUM (through secondary blacking by railwaymen, etc.) to bring the country to a halt next time they strike - and we can't pay them out whatever the demand, once Scargill replaces Gormley.

1.4.2 We are committed to collective bargaining, we know the pitfalls of incomes policy. At the moment we are delivering exactly what the militants want - free collective bargaining without a proper legal framework. That's what the unions will fight for, with the broken-reed moderate leaders trailing behind.

1.5 The danger is that we settle for the status quo with undue haste!

1.5.1 We should listen carefully to the technical problems because these could be a minefield, as Jim says. But we won't solve those problems by using "dove brains", ie people who, however clever and expert, have not spent time thinking about immunities, because they have been regarded as unthinkable. We need people like Len Neal, whom Jim won't talk to any more.

1.5.2 While being cautious on the technical pitfalls, we must insist on the moral position, the objectives and the strategy. The principle moral issue, for this discussion, is very simple. If secondary action by a union can financially ruin a hostage company, why should trade union funds themselves be totally immune from these innocent victims? The "first supplier, first customer" theory is really simply an attempt to extend the union right to take hostages, as far as public opinion is prepared to accept it. Its effects would be arbitrary; it would be much clearer to restrict immunity to primary action only. The Manifesto commits us to putting this right.

1.5.3 It is possible that the changes now proposed would themselves outflank the unions, in the sense that the very effect of the changes would impose penalties on the unions/^{using} no longer immune measures to resist it. The union rumpus, in other words, would itself be outlawed by the act against which the rumpus was directed.

2. GETTING CABINET AGREEMENT

- 2.1 We need a rough view of how the process of reaching agreement will go, before we can think how best to use the E Committee discussion tomorrow.
- 2.2 The greatest danger is that E Committee is simply a re-run of old arguments from fixed positions. If we are to break out of that, I suggest that we give Jim maximum opportunity to explain his positions (we elaborate in Section 3 below) so that colleagues understand the way he is thinking, and, if he is right in his present view, we understand him in time.
- 2.3 The subject is too important for colleagues to be hustled. We should be prepared to delay for, say, 2 weeks in order to get the thinking done, and then publish the consultative document allowing 4 weeks for consultation (and an accompanying debate, led by other colleagues if Jim won't do it).
- 2.4 Further work could be done by an inter-departmental official group, but it must go beyond Department of Employment. Could it use "unclean" outsiders like Len Neal or Ray Boyfield?
- 2.5 If necessary, we should consider a longer session at Chequers to ensure that colleagues really understand the issues - political, strategic and technical. Jim's team should present their strategy for solving the union problem - something they have never done since Stepping Stones began.
- 2.6 You could press for removal of both individual and trade union immunities for all secondary action, accepting a fallback position to the lifting of individual immunities only.
- 2.7 The consultative document could itself mention the lifting of trade union immunities and the exposure of union funds, so that the media could begin to debate that issue properly during the 4 weeks' consultation. We could brief the media. Jim would not agree to lead that debate, but someone else could. (We

could then decide magnanimously, to shelve it, but with warnings that it would be introduced later if abuse made it necessary).

- 2.5 We will have the latest opinion research results for you early Thursday morning. The questions will be about the Government's resolve, people's attitudes to Government's behaviour, reactions to a referendum proposal, whether the strike is political or about wages, the unions' motives and respect for the law, possible new laws, appropriate speed of introduction of new laws, whether people think that changes in the law would be in the best interests of the country.

3. E COMMITTEE AGENDA

- 3.1 You might start with a reference to our Manifesto commitment, to the strength of public opinion, to representations by BISPA and chambers of commerce etc. Then Jim should be asked to comment on general questions to help clear colleagues' minds. The technique should be probing and questioning, not disagreement and argument which will waste time. What he says should be tested and probed, and then noted, moving on to the next questions. He should not be allowed to stonewall on the basis that "We've been over all this so many times before".

3.2 The main questions to be debated

- 3.2.1 Jim has said, in his latest paper "Our aim is to start the process of putting industrial relations in Britain on a firm legal footing for the future". What are the steps he proposes? What is his definition of a "sound legal footing"? Is this a shared view amongst colleagues? How does Jim propose the Government should move towards that goal?

- 3.2.2 On the present proposals, could Jim explain the moral justification for saying that a first supplier or first customer may be blacked? He argued (E(79)44) that change on the

lines proposed would "threaten the very existence of a union". But union action itself threatens the existence of companies which, unlike unions, provide jobs, wealth, income tax, VAT, corporation tax, rates. Why should the unions be free to fight against (often imaginary) injustice - in other words, demanding something for nothing - by inflicting real injustice? Does he see this right as a permanent part of the industrial relations furniture?

3.2.3 Jim stresses the importance of carrying "the major employer organisations" with us. Who, apart from the CBI, does he include? What does "carrying" them mean? What would they do if we didn't carry them? How homogeneous or heterogeneous are they in fact? He has warned of "disproportionate opposition" if we go beyond the present consultative paper. Does he feel that that opposition would be less if the changes were introduced later? If so, what is his reasoning? He says that his two industrialist advisory groups are emphatic that we should go no further. Who are they? What is their analysis? What is their view of desirable longer-term changes? He talks of a "minefield". Can we be more specific about the legal pitfalls if that is what he means?

I am sending a copy of this minute to the Chancellor.

150.
JOHN HOSKYNs
5 February 1980