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Nick Sanders Esq
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Dear Nick

BRITISH LEYLAND

My Secretary of State undertook at this morning's meeting to let the Prime Minister have answers to the following three questions:-

1 What has British Leyland threatened to do?

The statement issued yesterday by the Managing Director (Mr Horrocks) to all employees of BL Cars Ltd states

"We therefore have to say that unless those hourly paid employees on strike return to work by Wednesday, April 23, their employment will be regarded as terminated.

This would mean they will not get back pay or bonus and will not qualify for termination or redundancy payments of any kind".

Legally BL can dismiss the strikers with this restricted notice - they have repudiated their contracts of employment by striking and it is open to BL as employer to accept this repudiation. (It seems unlikely also that an individual striker could counter-claim that it was the employer who first repudiated the contract by seeking to vary it unilaterally, though this is a complex area of law.)

If not subsequently re-engaged the dismissed strikers would be entitled only to any arrears of pay up to the time of going on strike, but not, it is thought, to the pay increase (of 5% or 10%) backdated to 1 November nor to the productivity bonus under the offer made by the company but not accepted by the strikers. Nor would they be entitled to any statutory redundancy payments nor (though this would depend on the terms of the collective agreement) a termination payment from the company.

2 Who will be dismissed on the basis of the threat?

The BL statement refers specifically to "those hourly paid employees on strike." The company doubtless deliberately says nothing about its intentions in regard to other categories (eg those laid off).



3 What happens to those who are dismissed next Wednesday but subsequently want to come back again?

The company could decide whether or not to re-engage them and on what terms. Certainly they would not need to give the pay increase or productivity bonus backdated to 1 November to those re-engaged and the question of the employees' continuity of service could also be a matter for negotiation. But in situations of this kind it is virtually universal practice either for employers not to carry out their threat to dismiss or for continuity of service to be preserved for those re-engaged.

The company will of course have taken legal advice before issuing the statement, but under the unfair dismissal legislation (Employment Protection Consolidation Act 1978) if some of those now on strike have returned before next Wednesday, the situation regarding the permanent dismissal of those still on strike, if that was desired by the company, would be uncertain. Certainly the company could not pick some and exclude others without laying itself open to a claim for unfair dismissal.

I am sending copies of this letter to the Private Secretaries to the Chancellor of the Exchequer, Secretary of State for Industry, Sir Robert Armstrong, and Mr J R Ibbs.

Yours sincerely

John Anderson.

J ANDERSON
Private Secretary

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