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31 August 1979

INNER LONDON MAGISTRATES' COURTS STRIKE

As the Home Secretary explained at Cabinet yesterday, the strike that has been running from Monday, 27 August has been contained to the extent that the courts have been able to deal with remand cases. This has ensured that no citizen has been detained in custody without lawful authority, and that the police have not been reduced to the expedient of re-arresting previously remanded prisoners. But, as the Home Secretary also made clear, the backlog of other work is rapidly building up, and the general position is bound to grow progressively worse.

The Home Secretary is more than grateful for his colleagues' help in enabling him to underwrite a settlement that resolved the dispute outside Inner London. For convenience, I attach at Annex A a summary of that settlement. The Home Secretary's aim throughout has been to obtain a settlement for Inner London that was fully in line with the settlement for the rest of the country. But the negotiating machinery for Inner London is on a different basis from that for the provinces. And the Inner London staff in dispute are represented by the CPSA and the SCPS.

Yesterday the Committee of Magistrates for Inner London met representatives of these unions. Home Office officials were asked to be present as observers and the Home Secretary instructed them to make themselves available as he felt that any failure to respond on this score would inevitably be distorted to our detriment. Officials were instructed to make it quite clear that the only settlement for which Government approval could be assumed would be one that was in line with that already reached outside Inner London. They also stressed that, as the Minister of State (Mr. Brittan) had indicated to both sides last week, any formal determination by the Committee of Magistrates (i.e. any determination that required the Home Secretary's confirmation before coming into effect) would be unacceptable if it involved the reference of any aspect of the matter to a body other than the Clegg Commission.

In the event, the unions put it to the Committee of Magistrates that there was a difference between - on the one hand - the Committee's determinations of "terms and conditions of employment of all officers employed by the Committee" (which require my confirmation by virtue of section 15(5) and (6) of the Administration of Justice Act 1964) and - on the other hand - any decisions by the Committee to set up any sort of open-ended deliberative body, which was purely a matter between the Committee and the staff, in which the Home Secretary had no formal locus. The Chief Metropolitan Magistrate, who chairs the Committee, and Home Office officials consider that interpretation of the 1964 Act to be correct.

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Going on from there, the unions asked the Committee of Magistrates to make a simple determination, which would require the Home Secretary's consent, providing for the following two things:

- (i) 9 per cent across the board from 1 July with an additional £1 per week for staff on grades up to and including those with a maximum of £5,172 excluding London weighting;
- (ii) a further increase of 5 per cent across the board, on the original scales, from 1 October 1979.

These propositions are closely in line with the first two stages of the "without prejudice" offer that the Committee found itself making last week, as described in Mr. Brittan's letter of 24 August.

It was part of the package that the third stage of the proposed settlement should be referred to a working party established, under independent chairmanship, with terms of reference on the lines set out at Annex B. It was common ground between the Committee of Magistrates and the unions that the members of the working party should be nominated by the Committee of Magistrates, the SCPS and the CPSA, though officials naturally reserved their position on the unions' suggestion that the Home Office itself should be represented.

In accordance with instructions, officials made it clear that agreement to the proposed payments from 1 July and 1 October should not be assumed. They also put it clearly on record that, whilst the Home Secretary had no statutory ability to veto the establishment of whatever discussion group might be agreed between the two sides in Inner London, he would be bound to have regard to the pay of magistrates' courts staff in the rest of England and Wales if and when a determination based on the recommendations of such a discussion group came before him to confirm or modify. Having heard what officials had to say, the Committee of Magistrates proceeded forthwith to make a formal determination on the 1 July and 1 October pay increases described above, and this is now before the Home Secretary. The Committee also gave the unions to understand that a working party on the lines that had been proposed would be acceptable to them.

The unions then said that they would be holding a further meeting of their membership today, when they confidently expected to secure a mandate to call off the strike as soon as the Home Secretary confirmed the determination made by the Committee of Magistrates on the July and October pay increases.

Annex C sets out the estimated maximum cost, in the first full year, of the two stages proposed by the Committee of Magistrates. It also sets out, for comparison, what the cost would be of applying to Inner London the settlement reached elsewhere. The difference between the first stage, payable on 1 July, of the agreed settlement outside London, and the first two stages, payable on 1 July and 1 October, taken together of what is now proposed for Inner London, is two percentage points (about £47,000), but the additional 5 per cent already awarded from 1 October to those outside London removes this difference. Admittedly, that 5 per cent is on account of what Clegg may eventually award and is therefore subject

to claw-back. But in any event the opportunity finally to align the two settlements cannot come until the New Year.

Naturally the Home Secretary recognises that this raises a number of questions. First, is there a risk that his confirmation of the Committee of Magistrates' determination might unstitch the settlement agreed outside Inner London? His assessment on this - based on soundings taken today - is that, provided we stress that any consideration of the third tranche of the settlement is bound to have regard to the position outside Inner London, we should not be at risk on this score.

Second, would the confirmation of what is now before the Home Secretary imply the acceptance of a radically different arrangement for settling Inner London pay from that in the provinces? This is clearly a point that needs to be considered with extreme care. But, again, provided that we stress our position on the third tranche, the Home Secretary thinks that we will have protected our flank.

Third, is it acceptable that we should proceed in the knowledge that a body over which we have no control is considering the basis of pay negotiation for the Inner London staff? The Home Secretary himself does not think that the Government's stance is prejudiced by a deal that has been reached between the employers and the employees without any encouragement by his Department, and in view of the fact that there is a reservation on his part about the outcome, which leaves him completely free to implement the Government's policy on the rates ultimately payable.

In any event, the Home Secretary considers that the current statutory framework, under which the Committee of Magistrates make determinations of pay although they have no responsibility whatsoever for finding the necessary money, is radically flawed and that its deficiencies have been masked over the last few years solely because successive incomes policies have left both sides with virtually no room for manoeuvre. Be all that as it may, the present situation is that a formula has been devised between the two sides for bringing the staff back to work, and the responsibility for giving or withholding approval to it now rests with the Home Secretary. He is very conscious that if he were to confirm the limited determination that is now before him there will still be problems to be settled at the turn of the year when some new proposal is put to him for the settlement of the third tranche, doubtless associated with some suggestions for Inner London pay negotiation machinery itself. But, balancing that against the steadily increasing disruption that will be caused by a continuing strike, the Home Secretary believes that he should seize this chance of ending it. If he did not confirm the determination, or if he sought to modify it in a manner that the staff would not accept, the strike would run on. The Home Secretary thinks that there would not be another chance of settling it for some weeks at least, and that the blame for the situation would be laid squarely at the Government's door.

The Home Secretary therefore intends to confirm the determination, and at the same time to make it absolutely clear that anything that he decides on the third stage of the settlement will have regard to the pay of magistrates' courts staff outside Inner London.

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The Home Secretary had hoped, on an issue of this magnitude, that his senior colleagues would have been able to meet him on Monday to discuss it. But he understands that this is not possible and believes that he must not delay action. He will, however, naturally be available on Monday to discuss the matter in person or on the telephone with any of his colleagues who wish to do so.

I am sending copies of this letter to the Private Secretaries to the Prime Minister, the Lord Chancellor, the Lord President, the Paymaster General, the Financial Secretary (Treasury), the members of E(EA) and to Martin Vile (Cabinet Office).

J. A. CHILCOT

A. A. Duguid, Esq.

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BASIS OF SETTLEMENT OUTSIDE INNER LONDON

1. 9.6% across the board on 1 July, plus restructuring bring the total increase of the wage bill to rather more than 12%.
2. Reference of the staff's claim to the Clegg Commission, the results to be paid in full with effect from 1 December 1979.
3. Payment on account from 1 October 1979 of 5% across the board, to be recouped from the Clegg award.

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PROVISIONAL TERMS OF REFERENCE OF WORKING PARTY AGREED BETWEEN  
INNER LONDON COMMITTEE OF MAGISTRATES AND OFFICERS' SIDE

"To recommend the future basis of determining the pay of staff of Inner London Magistrates' Courts who are represented by CPSA and SPCS, taking into account that the pay and conditions of service of some Inner London Magistrates' Courts grades are identical with the civil service and the majority of the conditions of service of the remaining staff are civil service-based, and also recommend the size of the final stage of the 1979 pay increase, to apply from 1 January 1979.

The working party [~~to~~/must] report not later than 1 January 1980".

ESTIMATED MAXIMUM COST OF COMMITTEE OF MAGISTRATES'  
DETERMINATION IN INNER LONDON

Estimated salary bill, excluding London weighting,  
of grades affected ..... £2,295,000

- (i) 9% from 1 July 1979 to 30 June 1980 .....£206,000
- (ii) 5% from 1 October 1979 to 30 June 1980 .....£ 86,000
- (iii) £1 per week for grades affected from  
1 July 1979 to 30 June 1980 .....£ 36,000

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£328,000

= 14.3% of salary bill

Estimated cost of applying JNC settlement to  
Inner London staff

9.6% plus restructuring from  
1 July 1979 to 30 June 1980 .....£281,000

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