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CABINET

MINISTERIAL COMMITTEE ON ECONOMIC STRATEGY

INDUSTRIAL RELATIONS ACT 1971

Note by the Secretary of State for Employment

Further to the remit from E Committee (E(80) 3rd Meeting Minutes), the Prime Minister asked that the Department of Employment should prepare a note on the experience under the Industrial Relations Act, 1971 of enforcing Orders of the National Industrial Relations Court against trade union funds. This note prepared by officials is attached.

Department of Employment
11 February 1980

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INDUSTRIAL RELATIONS ACT 1971

Enforcement of Orders against trade union funds

Note by the Department of Employment

Under the Industrial Relations Act 1971 there were a number of ways in which action could be brought against either a trade union or an officer of a trade union in the National Industrial Relations Court (NIRC). In most cases involving industrial disputes it was anticipated that action would be against the unions involved. Where unions were registered under the Act it was a defence for their officers, if proceeded against, that they had been acting within the terms of their authority under the union's rules, in which case the action would lie against the union.

2. There was, however, a considerable restriction on the scope for action against trade unions if they were registered under the Act. In the event very few unions did so. As a result the possibility of action being taken against trade unions as unregistered bodies was very greatly increased.
3. Trade unions funds were therefore at risk in two ways. Under Section 101 the NIRC could award compensation to be paid by a respondent union to a complainant, whether a company or an individual. Secondly, like the High Court, the NIRC could impose fines for contempt where respondents failed to observe its Orders.

Fines for Contempt

4. There were two cases in which the NIRC imposed fines for the non-observance of its Orders, one involving the Transport and General Workers Union and the other the Amalgamated Union of Engineering Workers.
5. In the case of the T&G, following an injunction granted to a Liverpool firm (Heatons) against blacking by dockers, the NIRC imposed on the union (which had not appeared in court) a fine of £5,000, this fine being later increased by £50,000. The T&G then changed its policy, paid the fines and appealed. The Court of Appeal reversed the NIRC and ordered the repayment of the fines. The House of Lords subsequently reversed the Court of Appeal and found that the NIRC in imposing the fines had acted correctly in law. The NIRC's Orders were restored. (This case rested on when a union was responsible for the acts of its officials (including shop stewards) - a matter with which the Courts had great difficulties in a number of cases.)
6. In the case of the AUEW, failure to act on an Order to readmit a member (Mr Goad) led to an initial fine of £5,000, followed by a further fine of £50,000. Neither then or later did the union appear in Court. To enforce payments in December 1972 union assets were sequestered.

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Compensation for Damages

7. During the 2-3 years that the Act was in force, only one of the 33 applications by employers for relief from industrial action reached a full hearing of a complaint for damages.

8. The AUEW was ordered to pay £47,000 compensation to a small engineering company, Con-Mech, for losses resulting from the union's unfair industrial practices. A further £100,000 of the union's assets were sequestered. The Court also decided that it had the power to use this sum to pay the compensation awarded by industrial tribunals to four of the union's employees who had been unfairly dismissed by the union. This too the union had refused to pay.

9. At this juncture the AUEW threatened a strike in the engineering industry. Whereupon "anonymous donors" appeared who with a view to "decreasing the risk of damage to the national economy arising from the union's strike call" offered to discharge the union's liabilities. The Court, while making clear that this did not involve any surrender of its authority, accepted the offer and the sequestered funds were returned to the union.

Department of Employment
11 February 1980

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Industrial Relations Act 1971
Department of Employment
by the Department of Employment

Under the Industrial Relations Act 1971 there were a number of ways in which action could be brought against either a trade union or an individual in the industrial relations field. In most cases involving industrial action would be against the union. Where unions were sued under the Act it was a defence for their officers to show that they had been acting within the terms of the authority under the union's rules, in which case the action would be against the union.

There was, however, a considerable restriction on the scope for action against trade unions if they were restricted under the Act. The event very few unions did so, as a result the possibility of the being taken against trade unions as unrestricted bodies was greatly increased.

Trade unions were therefore at risk in two ways. Under section 101 the NIRC could award compensation to be paid by a respondent to a complainant, whether a company or an individual. Secondly, under section 102, the NIRC could impose fines for contempt where respondents failed to observe its orders.

The Contingent

There were two cases in which the NIRC imposed fines for the non-observance of its orders, one involving the Transport and General Workers Union and the other the Amalgamated Union of Engineering Workers.

In the case of the T&G, following an injunction granted to a school firm (Hestons) against picketing by workers, the NIRC imposed a fine on the union which had not appeared in court, a fine of £7,500. This being later increased by £30,000. The T&G then changed its lawyers and appealed. The Court of Appeal reversed the order and ordered the repayment of the fine. The House of Lords subsequently reversed the Court of Appeal and found that the NIRC in imposing the fine had acted correctly in law. The NIRC's order was restored. (This case rested on when a union was responsible for the acts of its officials (including shop stewards) - a matter with which the Courts had great difficulties in a number of cases.)

In the case of the AUEW, failure to act in an order to prohibit a picket line led to an initial fine of £5,000 followed by a further fine of £30,000. Neither fine or later did the union appear in court. To enforce payments in December 1972 when assets were sequestered.

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