

PRIME MINISTERGREEN PAPER ON TRADE UNION IMMUNITIES

1. We think the latest draft of the Green Paper is much improved. We have three remaining comments:

Secret ballots

2. The new paragraph 20 of the Introduction enjoins unions to adopt democratic processes. This is a very important long-term union reform which it is very hard for anyone to oppose. Jim Prior argues that even to mention "mandatory" secret ballots for elections would put further progress at risk. But we do not believe that it would be so dangerous to invite comment on the idea that the full range of trade union immunities should only be available to "constitutional" unions - ie those with democratic procedures. This idea has appeared elsewhere. It deserves airing - without commitment - in the chapter on secret ballots. The Green Paper already canvasses many other ideas which are anathema to the trade unions. It would be quite wrong to fail to raise this subject - which is not "mandatory", since unions would be free not to comply - for fear that even to mention it would provoke them. Democracy can never be a dirty word.
3. We also think the Annex describing the American system should say that secret ballots for regular elections - at local, regional and national level - are a legal requirement there.

Vicarious liability

4. Paragraph 17 and paragraphs 20-25 of Section A still seem too negative about requiring a trade union to show that it used its "best endeavours" to bring unlawful action to an end. Paragraph 17 says this could well weaken trade union authority. The opposite view - that authority might be strengthened - is expressed only very briefly at paragraph 26.

Timing

5. In June 1979 the CBI supported a quick Employment Bill to deal with the urgent priorities, and said:



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"The CBI is also making an urgent study of the whole question of trade union immunity from legal action, including the problems of secondary action in all forms, and of the enforceability of procedural agreements."

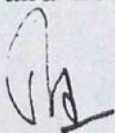
By September 1979, they had produced an internal report. In September 1979, they said:

"In due course the law may have to be further amended . . . Many of our members have expressed concern that trade unions themselves are largely immune from action in tort, and have recommended that they should be accountable in law for their actions and for those undertaken on their behalf."

In March 1980, they expressed a preference for removing immunity for all secondary action, and said:

"Council laid great stress on the need for the Government to bring forward at the first opportunity a comprehensive Green Paper which would deal with the legality of industrial action and the responsibility of trade unions in this regard."

6. Now, eighteen months after beginning their urgent study, the CBI say they would much prefer a longer period than six months. We doubt that a longer period is really necessary. But if the six months is accepted, would this effectively rule out even the possibility of taking a further legislative step during the 1981/2 Session? If so, we support Geoffrey Howe's suggestion that the period could be reduced. We should not close the option of moving more quickly if the climate is right, or if we can make the climate right, by public debate.
7. In any event, we believe it is very important that there should be a full debate among Cabinet colleagues while the consultation period proceeds about our intentions on trade union reform. (My letter of 12 December sets out the case for this.) We hope that the responses to the Green Paper will be circulated to all members of E when they are received.
8. I am copying this minute to Geoffrey Howe, Keith Joseph, Jim Prior and Robin Ibbs.



JOHN HOSKYNs

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