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P.0869

PRIME MINISTER

Industrial Relations Legislation
(E(82)64)

BACKGROUND

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The Government has already successfully promoted two measures of trade union reform: the Employment Act 1980; and the Employment Bill now before Parliament, expected to receive Royal Assent shortly. The main provisions of these measures are summarised in Annex A to E(82)64.

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2. The Secretary of State for Employment proposes there should now be public consultation with a view to possible further reforms: mandatory secret ballots for election of trade union leaders; replacing contracting out of the political levy by contracting in; and amending the definition of 'political objects' for the purposes of the Trade Union Act 1913. He also suggests that the possibility of mandatory strike ballots should be canvassed, but in the expectation that it will not be pursued. A number of other possibilities, which the Secretary of State suggests should not be put forward for public discussion, are outlined in Annex B to his memorandum.

3. The Minister of State for Employment (Mr Alison) announced the Government's intention of launching public consultations on the main items in his speech to the Conservative Party Conference on 5 October.

4. The Secretary of State for Employment gives no indication of the timing of any legislation that might follow the consultations, but says that the possibility of legislation in the present Parliament is not ruled out.

MAIN ISSUES

5. Following Mr Alison's speech the Government is effectively committed now to issuing a consultative document on three items - mandatory secret



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ballots for trade union leaders, mandatory strike ballots and the political levy. The Secretary of State for Employment says that he will circulate the text of such a document in due course. The main issues for the Committee are as follows:

- i. Are there any points about the three items which the Secretary of State should take into account in preparing his consultative document?
- ii. Should any further subjects be put forward for consultation?
- iii. What might be the timing of further measures of trade union reform?

Ballots for trade union leaders

6. Although the proposal for mandatory ballots for trade union leaders is being put out for consultation, the Government has already made it clear that it is convinced of the need for action in this area. The consultation will therefore presumably be about "how" rather than "whether". There are however some practical difficulties: the trade unions are unlikely to cooperate, and it may be difficult to devise legislation which will take account of the differing needs of individual trade unions. The Secretary of State therefore suggests that the approach will need to be flexible. He does not however comment on the problem of enforcement which he saw as a difficulty last year (E(81)103: Annex 2, paragraph 8). Will trade unions which do not cooperate lose their immunity and thus become liable to be sued for what the public might regard as normal and traditional trade union activity? Or is there some way of avoiding major conflict between the trade union movement and the law? Without going into the details of the consultative document, the Committee may wish to hear more about the proposals on enforcement which will be put out for comment.

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Strike ballots

7. The Secretary of State makes it clear that he does not favour mandatory strike ballots on the grounds that they may in some circumstances be counter productive and sees consultation on this issue mainly as a way of handling pressure from some of the Government's supporters in Parliament.

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If the Committee agrees, the passage in the consultative document will be shaped accordingly. The Committee may also wish to express a view on whether the consultation should cover the idea, mentioned in the last sentence of paragraph 7 of E(82)64, of state-subsidised ballots by employers. One disadvantage of such a proposal is that it might make it more difficult for employers to use their own discretion over whether and when to hold a ballot.

Contracting-out

8. When the issue of the political levy came up last year the Committee felt that it was highly sensitive. Although it was discussed briefly it was not mentioned in the Secretary of State's paper (E(81)103) or referred to in the minutes (E(81)30th Meeting). In view of Mr Alison's speech, these difficulties are presumably now thought to be less serious. The Secretary of State concedes however that there is a risk of opening up the general issue of the financing of political parties. The Committee may therefore be interested to know broadly how the Secretary of State envisages handling the matter in the consultative document.

Rejected possibilities

9. The arguments relating to possibilities which the Secretary of State for Employment does not commend are clearly set out in Annex B to his memorandum. It seems likely that most of the Committee will agree that these ideas should not be pursued, at least for the time being. On the proposals relating to lay-off, you and a few other senior Ministers are aware that legislation has been drafted on a contingency basis for speedy introduction if circumstances arise of the kind referred to in paragraph 11 of Annex ^B 2, and there would seem to be no advantage in putting such proposals out for consultation. The Secretary of State makes it clear in paragraph 14 of his paper that the omission of proposals from the consultative document is not intended to foreclose on any options which the Government might wish to put to the electorate. You will no doubt wish to stress that the possibility of pursuing more radical approaches to trade union reform in the next Parliament should remain open.



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Timing and presentation

10. There is no place in the programme for the 1982-83 Session for legislation on industrial relations. In any event it seems unlikely that, assuming a reasonable period for consultation and adequate time for drafting, a Bill could be ready for introduction until well into the next Session. As you know the present plan is to complete the 1982-83 legislative programme before the summer recess. There would remain the possibility of introduction early in the 1983-84 Session of this Parliament should there be one, or in the first session of a new Parliament. The Secretary of State indicates that he would like to keep the Government's intentions about the timing of legislation deliberately vague and seeks the Committee's endorsement of this approach.

HANDLING

11. You will wish to ask the Secretary of State for Employment to introduce his memorandum. The Chancellor of the Exchequer and the Secretaries of State for Industry and for Northern Ireland may wish to comment on the broad strategy which underlies the proposals and on their handling. The Lord Chancellor, the Attorney General or the Lord Advocate (all of whom have been invited for this item) may have particular comments on legal aspects. The Lord President may wish to say something about the timing of legislation, and the Government's stance on that.

CONCLUSIONS

12. You will wish the Committee to reach conclusions on the following:

i. whether, as already indicated publicly, the Secretary of State for Employment should put out a consultative document in the autumn covering:

a. mandatory secret ballots for trade union leaders;

b. mandatory strike ballots;

c. the operation of the 1913 Act and particularly the political levy and political objects provisions;



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ii. whether the treatment of these matters should be on the lines indicated in E(82)64, subject to any points referred to in discussion;

iii. whether, without ruling out options for later consideration, the consultative document should be confined to these proposals;

iv. whether the timing of further industrial relations legislation should be kept open, as envisaged by the Secretary of State for Employment.

You will wish to invite the Secretary of State for Employment to clear the draft of the consultative document with the Committee (preferably in correspondence).

Emp. Law.

PLG

P L GREGSON

12 October 1982