

COVERING CONFIDENTIAL

FROM THE PRIVATE SECRETARY



St Duguid

HOUSE OF LORDS,
SW1A 0PW

12th February 1980

I.E.Fair Esq
The Private Secretary to the
Secretary of State for Employment
Department of Employment
93 Ebury Bridge Road
London S.W.1.

IMMUNITIES FOR SECONDARY INDUSTRIAL
ACTION

I am enclosing a note which the Lord
Chancellor has written for the meeting of
E Committee tomorrow morning.

I am sending copies to the Private Secretaries
of all other members of E Committee, and to
the Private Secretaries to the Chancellor of
the Duchy of Lancaster, the Paymaster General,
the Solicitor General and Sir Robert Armstrong.

i.H.Maxwell

FROM:

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THE RT. HON. LORD HALSHAM OF ST. MARYLEBONE, C.H., F.R.S., D.C.L.



HOUSE OF LORDS,
SW1A 0PW

EMPLOYMENT BILL: TRADE UNION IMMUNITIES

NOTE BY THE LORD CHANCELLOR

I have been reflecting about the Bill as it stands and our Election Manifesto and other cognate matters. I would like to put forward the following propositions:

1. As it stands the Bill already deals with picketing more or less in the terms of our Manifesto.
2. The existing law does not protect individuals (particularly for instance members of Trade Union Executives or Committees, or Officials) from liability for tort, although it protects Trade Unions. It seems to me that potential plaintiffs (e.g. innocent third parties) have not exploited this gap in the existing law since obstruction, nuisance, trespass and intimidation are not protected at all. I feel that the word should be put around that injunctions are available against such actions. In one of the recent cases where a McShane-type case (based on inducing a breach of contract) was involved, I am told that one of the pickets had a sledge hammer.
3. Whatever may be done about the McShane judgement I consider that "furthering" should be given an objective connotation and not the subjective connotation attached to it by the House of Lords.

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4. I wonder whether it would not be a good thing to add a positive section declaring the rights of persons not party to trade disputes, and declaring interference with those rights an actionable tort (see draft No.1 in the attached annex which is simply a cockshy to illustrate what I mean). I wonder whether the picketing section (the new section 15 for the 1974 Act) might not be strengthened by adding a new sub-section in the manner suggested in the second draft in the annex which is equally only an illustration.

H of St.M

ANNEX

1. Suggested addition to the picketing provisions (additional Clause)

"Subject to the provisions of sections 14 and 15 of the 1974 Act but otherwise notwithstanding anything in this or any of the principal Acts, a person (including a body corporate) who is not a party to a Trade dispute shall be entitled to freedom to carry on his business and for that purpose to have free access to or from his place of work and to his customers, suppliers, stocks and sources of supply, and any interference with or obstruction of such access shall be actionable in tort!"

S.15 - Picketing Pickets →

2. Additional sub-section in new Section 15 of the 1974 Act

"(1A) A person shall not be treated as attending for the purpose stated in subsection (1) above if while there (a) he is in possession of an offensive weapon or (b) he forms one of a group so numerous that by reason of its size it might cause reasonable apprehension in the minds of persons seeking lawful access to their place of work or (c) he obstructs the police or (d) he is insulting or offensive in his language or his behaviour."

Mark

Law of Contempt

*Done
contempt
that
understand to print*