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E(80) 6th Meeting

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CABINET

MINISTERIAL COMMITTEE ON ECONOMIC STRATEGY

MINUTES of a Meeting held at
10 Downing Street on
MONDAY 18 FEBRUARY 1980 at 10.30 am

PRESENT

The Rt Hon Margaret Thatcher MP
Prime Minister

The Rt Hon William Whitelaw MP
Secretary of State for the
Home Department

The Rt Hon Lord Carrington
Secretary of State for Foreign
and Commonwealth Affairs

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer

The Rt Hon Sir Keith Joseph MP
Secretary of State for Industry

The Rt Hon James Prior MP
Secretary of State for Employment

The Rt Hon Michael Heseltine MP
Secretary of State for
the Environment

The Rt Hon John Nott MP
Secretary of State for Trade

The Rt Hon David Howell MP
Secretary of State for Energy

The Rt Hon John Biffen MP
Chief Secretary, Treasury

THE FOLLOWING WERE ALSO PRESENT

The Rt Hon Lord Hailsham
Lord Chancellor

The Rt Hon George Younger MP
Secretary of State for Scotland

The Rt Hon Nicholas Edwards MP
Secretary of State for Wales

The Rt Hon Norman St John-Stevas MP
Chancellor of the Duchy of Lancaster

The Rt Hon Angus Maude MP
Paymaster General

The Rt Hon Sir Michael Havers QC MP
Attorney General

Sir Ian Percival QC MP
Solicitor General

SECRETARIAT
Sir Robert Armstrong
Mr P Le Cheminant
Mr P Mountfield

SUBJECT
SECONDARY PICKETING

Revised 19.2.80

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SECONDARY PICKETING

The Committee raised orally the subject of Secondary picketing. Their discussion and conclusions reached are recorded separately.

Cabinet Office
18 February 1980

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MEMOS

c/v
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CABINET

MINISTERIAL COMMITTEE ON ECONOMIC STRATEGY

LIMITED CIRCULATION ANNEX
E(80) 6TH MEETING MINUTES
MONDAY 18 FEBRUARY 1980 AT 10.30 am

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SECONDARY PICKETING
Previous Reference: E(80) 5th Meeting

THE PRIME MINISTER said that developments in the steel strike and more generally in the past few days had led her to call a special meeting of the Committee. Secondary picketing in the steel strike was taking place on a disturbing scale, and the Government was being blamed for doing nothing about it. The Government was committed by the Manifesto on which it won the election to protect the right of the ordinary citizen and of the employer to go about his own business undeterred by picketing. The Committee should consider whether any further steps were necessary to enforce the present criminal law; whether the proposed changes in the civil law, incorporated in Clause 14 of the Employment Bill now before Parliament, should be made the subject of a separate Bill and enacted as quickly as possible; and whether the Trades Union Congress (TUC) could be reminded of their earlier undertaking to conduct picketing in a responsible and peaceful manner.

a. Enforcement of the Criminal Law

THE HOME SECRETARY said that he had remained in close touch with the Chief Constables concerned in the current steel dispute. At Sheffield the Chief Constable of South Yorkshire had been confident that he had sufficient force available to maintain access to the Hadfield Plant, despite considerable numbers of pickets; but the management itself had decided to close down the plant, rather than risk confrontation. At Sheerness picketing so far was slight, but there were indications that it would be stepped up considerably in the next few days. The Chief

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Constable of Kent would be prepared to take suitable action. Despite his contacts with Chief Constables, who were of course statutorily independent of Government in operational matters, there remained some doubt about the state of the law and about the Government's willingness to see it enforced. It would therefore be helpful if the Attorney General were to make a definitive statement in Parliament about the law as it now stood, which he himself could then follow up with guidance to the police. The final decisions would have to be taken by Chief Constables, in the light of the situation on the ground.

In discussion, there was general support for this last proposition: the circumstances in each case were different, and the strength of public opinion varied from town to town. Chief Constables might, however, be encouraged not merely to keep open access to a plant, but to protect those who wished to work against verbal intimidation. It was for each Chief Constable to decide the numbers of pickets which were justified in a particular situation. He could then take action to deter or remove additional pickets. But it would not be easy, even given such a decision, to take action against the union itself. Even if a charge of conspiracy could in theory be mounted, it would be difficult to sustain, and would take a long time to prosecute. The sending of numbers of men to a picket site did not constitute an offence or a conspiracy: numbers could constitute the basis of an offence only in a particular situation and at a particular time when the police had ruled that any pickets over and above a certain number would constitute a threat to public order. A restatement of the criminal law would help to reassure public opinion and would strengthen the hand of the police.

(b) Immediate Legislation to amend the Civil Law

Clause 14 of the Employment Bill already embodied the provisions approved by the Committee, and would allow an employer to seek an injunction against secondary pickets. It was noted that the Confederation of British Industry had queried whether the clause as at present drafted restricted immunity to people picketing in contemplation or furtherance of a trade dispute to which they as employees were themselves parties, as well as to action at or near their own place of work. The Secretary of State for Employment said that his understanding was that the clause as drafted would have that effect: a man could not picket at his own place of work unless he was not working there and therefore, by definition as it were, in dispute with his

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employer. The general view of the Committee was that clause 14 of the Bill formed part of a complex of measures, including those on the closed shop and protection against unfair exclusion or dismissal. It would be a mistake to deal separately and ahead of the rest of the Bill with the question of picketing. This would be seen as a response to a particular industrial dispute which was already getting out of hand, and it would invite challenge and defiance and would risk bringing the law into disrepute. The civil law remedy would be most effective in deterring secondary pickets in the early stages of a dispute, before opinion became roused too high; it was unlikely to be effective when events had developed to the stage now reached in the steel strike.

(c) An approach to the TUC

There was general support for the proposal that the TUC should be reminded both of the criminal law as it applied to picketing and of the guidance on picketing which it had issued to affiliated unions in February 1979. The reminder should take the form of a letter from the Secretary of State for Employment to Mr Lionel Murray and should issue during the course of the day. The letter should, in effect, invite the TUC to say whether they stood by their traditional support for the law and the protection of the individual.

THE PRIME MINISTER, summing up the discussion, said that the Committee agreed on the need for an early re-statement of the law, on further guidance to Chief Constables, and upon an approach to the TUC. They also agreed that no steps should be taken to accelerate the Employment Bill, which should be allowed to take its course as already agreed.

The Committee -

1. Invited the Attorney General to make a statement in Parliament next day, re-stating the criminal law as it now stood on the question of picketing.
2. Invited the Home Secretary to circulate guidance to Chief Constables, drawing their attention to this statement.
3. Invited the Secretary of State for Employment, in consultation with the Solicitor General, to satisfy himself that Clause 14 of the Employment Bill as now drafted would restrict immunity for picketing to action taken by people in contemplation or furtherance of a trade dispute to which they as employees were themselves parties, as well as to action taken at or near their own place of work.

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4. Instructed the Secretary of the Cabinet, in consultation with officials of the Home Office, the Department of Employment and the Law Officers' Department, to prepare and submit to the Secretary of State for Employment the draft of a letter for him to write that day to the General Secretary of the TUC, restating the application of the criminal law to picketing, reminding him of the guidance on picketing issued by the TUC in February 1979, and inviting him to reaffirm that guidance and seek the co-operation of affiliated unions in implementing it.

Cabinet Office

18 February 1980

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