

PRIME MINISTERNUR LAY-OFF

1. The decision whether to discourage the BR Board from laying off NUR members is the most important the Government has to take in the handling of this dispute.
2. Peter Gregson's note of 9 July, reporting the MISC 80 meeting, summarises one set of arguments - on the one hand, the risk of an early High Court declaration that BRB are obliged to continue paying NUR because of the guaranteed working week, which might well weaken both the Government's and the Board's position; on the other hand, the obvious danger of intervening in the Board's tactical handling, and so seeming to weaken our support for them.
3. If we intervene and try to discourage the Board, we think Sir Peter Parker will take it badly. He has already made it clear that he is worried about the Government getting cold feet, and he would take our intervention as the first sign of failing resolve. He would want to know why we couldn't legislate to permit lay-off (we accept the Parliamentary difficulties of doing it in a hurry) and he would probably say - perhaps publicly - that if we didn't want him to do it, we would have to meet the cost, by extra grant. ASLEF would see that lay-off had not occurred, and would perhaps see it as the first sign of weakness; and ASLEF members would be under less pressure, because they would not be responsible for others not being paid.
4. If we do not intervene, and leave the Board to go ahead with notice of lay-off, BR management and unions will have a desirable impression of the Government's resolution in handling the strike. BR should of course make it clear that it is ASLEF who have closed the railways.
5. The Attorney-General's Office estimates BRB's chances of winning in the courts at no more than 25 per cent; the British Rail Board's lawyers put the chances rather higher, at some 40 per cent. If BRB does win, that would in effect deal a serious blow to the 1919 contract which would thus be shown to be hopelessly unworkable and out of date.

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6 If BR loses, the full absurdity of the railways position would be publicly laid bare. A bankrupt railway with no trains running would apparently be legally obliged to pay 200,000 of its workers indefinitely under a 60-year-old agreement which appears to be literally interminable. And the Government would be legally obliged to guarantee the borrowing necessary to accomplish this.

Such a judgment would be a propaganda blow to BRB - and indirectly to the Government as well. But it would also be a public demonstration of the impossibility of the position, and hence it would create the political conditions to alter that position. We should not underestimate the public impact of a man like Peter Parker, with all his enthusiasm for the railway community, being driven in sheer exasperation to take such a course.

7. At this stage, we cannot be sure whether the appropriate response after a defeat in the courts would be to introduce a brief "Lay-off Bill" or to give notice of our intention to alter by statute the corporate status of British Rail.

But it is fairly clear that the alternative course, of discouraging Peter Parker from pursuing his intention, would be to give the kiss of life to the 1919 Agreement and to Lord McCarthy and the Tribunal which that agreement established.

We cannot now dodge the reality that a railway run on the basis of the 1919 Agreement is simply not modernisable. Sir Peter Parker has now recognised that reality and is acting upon it. This is scarcely the moment to withdraw support from him. If we do, other nationalised industry chiefs will surely draw the lesson that they cannot rely upon the Government's support when the going gets rough.

I am sending copies of this note to the Chancellor of the Exchequer and to the Secretary of State for Transport.

fm

FERDINAND MOUNT

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10 DOWNING STREET

(1)

Prime Minister

NUR Lay-off

Alongside this note by FM/JV
I suggest you read, at flag A,
the Attorney-General's view.

MCS 12/7

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10 DOWNING STREET

From the Private Secretary

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Prime Minister

Rail dispute

I have had a rundown from Mr Howell's office of his meeting with Sir P Parker earlier this evening.

The B&B are worried by the Foot/Booth 'politicisation' of the dispute; in particular, at the accusation that they are trying to destroy aslef.

They are accordingly deferring sending dismissal notices to aslef drivers, and will confine themselves tomorrow to a high publicity announcement

PTO

unless aslef return to work

that they will be closing the railways from the middle of next week. Later they will say that they will be laying off NUR and dismissing aslef.

They know that their legal position on lay-off is weak, but are determined to go ahead to demonstrate the futility of the 1919 Agreement.

This seems an over-reaction to Foot/Booth, leading us to maximum confrontation with NUR and seeming to let aslef off the hook for a few days.

Mr Howell will be looking out for you in the House to bring you up to date, later tonight.

MUS 12/7