Trade Unions and Political Action

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Keeping the Links: The Right to Political Action

The Trade Union Bill which has been presented by Mr Tom King as a key measure in the 1983/4 Parliamentary session, is, at the time of writing, in the Committee stage. Given the size of the Conservative majority in the House of Commons, nothing short of divine intervention is likely to prevent it from becoming law during the summer of 1984.

Few measures have been more noisily introduced, and none have had a more propagandist significance. Most of the initial proposals of the Bill were canvassed while Mr Norman Tebbit was Secretary of State for Employment, in a pre-election Green Paper. Immediately after the June 1983 landslide, this Paper was re-issued, having undergone a colour change. Now the White Paper differed in one crucial respect from its predecessor: where it had been proposed to legislate to compel trade unionists to "contract in" to political funds of their unions, now, in a stroke of genius, it was proposed to subject the very existence of political funds to the repeated ordeal of recurrent ballots. This ingenious measure would mean that trade union political expenditure could be completely terminated, if ballots fell during a period where Labour support was going through a bad patch. Therefore the new Bill has considerable political significance. Indeed, it will impose a constitutional change of great magnitude, since it is calculated to disable the main opposition Party, without in any way subjecting company law to similar reforms controlling the very large disbursements by industrial and commercial concerns to the Conservative Party. Overall, the new measure is a good example of the way in which the Thatcher administration uses the rhetoric of "democracy" as a means for disabling democratic institutions. "Democracy" in industry can mean many things: from general ballots on the membership of the Board of Directors down to a more adequate flow of information to employees. Neither on the larger nor the smaller scale is Mrs Thatcher willing to advance so much as one millimetre into democratising the Boardroom, but the trade unions are a different matter. Nothing short of the most comprehensive restrictions on their freedom of manoeuvre will do.

In sum, the trade union Bill seeks to impose regulations over three distinct areas of trade union government. First, it will regulate elections of trade union executive committees; second, it provides for the institution of strike ballots, subject to a penalty which involves the removal of amenities where strikes are called without ballots; third, it seeks to regulate political funds.

The new Bill established two categories of membership of trade union executives. Non-voting members may remain appointed "civil servants". But all voting members of these committees will henceforth be subjected to five yearly elections. After such elections, defeated members will not be able to stay in office for longer than six months before their replacements succeed them. Where existing executive members are permanent staff members, their Contracts of Employment will be overruled, as indeed will union rule books which specify anything contrary to the new law. Voting rights will be extended to all full members of the union in question, leaving out only those who are normally disqualified from voting by rule, such as unemployed members, apprentices or trainees, members who are behind with their subscriptions, or new members who have not completed their probationary period. It will be permitted to establish constituencies on trade, regional or sectional lines, if the union rules so determine. But voters may not be disenfranchised from any of the elections in which they belong to the appropriate constituency. Voting must be by the marking of a ballot paper, at a time and place convenient to the voter, secret, and it must not involve the voter in any direct expenditure. All union members will have the right to stand as candidates, and it will be illegal to require them to belong to a particular political Party. But a union may exclude a class of members if all of them are barred from seeking office by union rule. Breaches of the new law may be contested by any union member. Any person belonging to the union at the time of the election may apply to the Courts for enforcement. If the election has yet to take place, then any person who is a member at the time of application may apply to the Courts. If the Court accepts such an application, it will issue a declaration which must specify the union's infringement of the law. It may also issue an enforcement order, which will be binding on the union. The Court will be able to instruct the union to hold the election, or to rectify the declared breach of procedure, and it will be able to compel the union to conform to its declarations in the future. Such declarations will be subject to a time scale, within which they must be enforced. Normally, obedience will be enforced within a period of six months, but any union member can repair again to the Courts for enforcement, if this is delayed.

The sanction against strikes which are agreed without prior ballots will be the removal of trade union immunity from prosecution for damages arising from the inducement of breaches of contract. After the Bill becomes law, unless a trade union has balloted its members, it will find itself in the same position as the Railway Servants were in the famous Taff Vale case at the beginning of the century. Not only employers, but aggrieved third parties will have the right to sue for damages in all such cases. The Bill provides that each ballot must be held not more than four weeks before the commencement of strike. All those who are deemed likely to be called out must be given the right to vote, which must not be

given to people who are not directly involved. But if a member is denied the right to vote, and then becomes involved in the industrial action, the trade union will be deemed to have failed to meet the obligations of the new law. Ballots must pose the question of whether the member wishes to be involved in industrial action in breach of contract (or to continue to be so involved), and the question must be so phrased as to require a straightforward yes or no in answer. Failure to conform to this stipulation will mean that even where a ballot has taken place, the union will remain unprotected against civil actions. The procedures for voting in strike ballots will be the same as those for voting in the election of trade union executive committees.

When we come to the question of political funds, we arrive at a unique legal institution. In most parts of the world, the disposition of trade union funds is not subject to the kinds of impediment established in the British Trade Union Act of 1913, which required unions to establish a special political fund if they wished to be involved in the activities of a political Party. Other voluntary bodies are not regulated in this way, and it is quite remarkable that British trade unions have accepted this interference with their right to dispose of their own funds so uncomplainingly, for so long.

The new law provides that any resolution to establish a political fund will cease to be effective after a lapse of 10 years. (In the event of a subsequent ballot within a shorter time, it will of course be possible to annul a political fund more quickly). The new Act will provide that any resolution establishing a political fund which was passed more than nine years before it takes effect, "will be deemed to have been carried" nine years ago. If two unions with political funds have amalgamated, the date of their amalgamation vote will not be counted as a "resolution". The oldest political fund involved in the merger will serve as the point from which dating takes place. The Certification Officer must approve the rules of ballots.

Political funds will consist of contributions by members, donations from others, and any interest which such assets may earn. It will not be able to transfer other union monies into the political fund. If a political fund survives the expiration of its "resolution" nothing may be added to it except the interest which it earns. It will be illegal to require contributions to it by rule, and all or any of it can be transferred to any other fund, whatever the union rules have hitherto stipulated. It will be illegal to meet the liabilities of political events from any other fund after the Act has been passed. Where a ballot goes against a fund, payments out of it may be made for political purposes for a period of as much as six months or less. Where a resolution ceases to have effect, the union must discontinue collecting political contributions as soon as practicable, and if any contributions are in fact paid over after the cessation of the resolution, they can be paid into any other fund, whatever union rules might previously have said. If a member requests the refund of any

contributions made to a political fund after the expiration of a resolution, then such refunds must be made.

All union rules on political funds will cease to be valid six months after a ballot rejects the continuation of a fund, or immediately a resolution expires without a new ballot having revalidated it. After a resolution has expired, however, the rules for administering the assets of a fund may be continued. At the same time, members will continue to have the right to complain to the Certification Officer if they object to the manner in which it has been administered. The enforcement of these provisions will be open to any member of the union concerned. He or she may complain to the High Court, or to the Court of Session in Scotland, if a union does not stop collecting contributions to a political fund once that fund has become outdated or been overturned. The Court may then order the union to comply, and this order is enforceable at the request of any member of the union. Supposing there is a gap between the expiration of a resolution and an affirmative ballot establishing a new one, then contributions received in the interim may not be paid into the new fund.

A major change in the idea of the political fund is imposed in the provisions which define what "political objects" may be. They are now redefined not only to cover any financial contribution to a political Party and any provision of services or property to a political Party. They also cover the registration of electors, the support for candidatures or the selection of candidates, the maintenance of political office holders, the subsidising of conferences or meetings of political Parties and, a disturbing new departure, "the production, publication or distribution of any literature, document, film, soundrecording or advertisement which, taken as a whole" seeks to influence voting for a political Party or candidate. No doubt this new control is a result of the very effective advertising campaign undertaken by the National Association of Local Government Officers in the run up to the June 1983 Election. NALGO's campaign did not offer support to a particular Party, but it did seek to exert pressure on the governing Party. Unless NALGO established a political fund, it would not be able to repeat this initiative in subsequent Elections. The new Act will define "candidates for political office" as persons seeking Election to Parliament, the European Assembly, local Councils, or office within any political Party.

This last restriction will have one important and unintended result. It will remind trade unionists that there are more potential uses for a political fund than the admittedly crucial commitment to the maintenance of the Labour Party. Political funds will now be necessary if a union is to finance any public campaign whatever, on trade union issues no less than any other matters of general concern, unless such a campaign is so innocuous as to exercise no influence at all on voting behaviour.

There are, however, strong reasons why all unions need to influence voting behaviour during a prolonged slump. Approximately 4 million

such reasons have lost their jobs in recent years. That the unions have been weakened by this development is understandable. We must now examine how suitable political action might restore some of their former capacities.

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Some Laws Trade Unions Need

The institution of mass unemployment as a permanent economic fact has naturally transformed the prospects for collective bargaining. But this does not mean that trade unions are left entirely without resource. Undoubtedly, because collective bargaining has been the main method of trade union advance during the whole period of full employment following the Second World War, political action has been somewhat under valued as a mode of activity. To some degree, as successive governments have legislated in order to control wage levels, trade unions have assumed a rather defensive mentality whenever the word "law" has been mentioned.

This trade union sensitivity is understandable in the light of the constant sniping by governments (and by establishment economic doctrine) against the rights of free collective bargaining. This has been maintained throughout the post-war period. Orthodox logic has sought to express the problem created by the Keynesian revolution and the assumption of "demand-management" functions by modern governments in a necessary chain of baleful consequences, which have often been represented schematically in sloganised form. The argument has gone like this:

> "Full employment + free trade unionism + free collective bargaining = inflation + balance of payments crises + stop-go monetary and fiscal policies + low rates of investment + low productivity + more inflation and so on, in the familiar pattern of vicious circle".

On the left-hand side of this mock equation are three factors, all of which have been repeatedly worried by different governments, of different persuasions, at different stages. Every governmental curtailment of these conditions threatens trade unionism in one way or other. Full employment survived longest, until the breach with Keynes announced by Mr Callaghan in the 1970s, the follow-up early version of monetarism pursued by Denis Healey, and the subsequent wholehearted application of that doctrine by Mrs Thatcher. Trade union freedom has been successively put in question by Mr Wilson (In Place of Strife, 1969), by Mr Heath (the Industrial Relations Act, 1971), and by Mrs Thatcher

(Employment Acts of the 1980s). Attempts to erode free collective bargaining have been the most consistently pursued of all three strategies; between 1939 and 1983 only 16 out of 44 years have been free of any institutional form of Government intervention in the process of wage bargaining. It is in this way that legislation in the field of labour relations has acquired distinctly negative overtones for most trade unionists.

Even so, during the 1960s and 1970s there were some notable, if always limited and sometimes ambiguous advances in labour legislation, covering Health and Safety at Work, Employment Protection, Redundancy Payments, Equal Pay, Sex and Racial Discrimination and other issues. The ambiguities and limits of these measures might have been fewer had the trade unions not, in their defensive posture, seen the legislative method as distinctly secondary to collective bargaining amongst their modes of work. The effect of legislation was also indirectly beneficial in a number of ways about which unions were at first quite naturally ambivalent. For instance, the threat that procedural agreements might be made legally enforceable provoked the much needed modernisation of these agreements, removing some very archaic practices and unfair procedures from a ramshackle industrial relations system. For all this, the main weight of trade union effort, even during the earlier years of the social contract, went into direct bargaining on wages, hours and working conditions.

There was one major legislative commitment of the Trade Union Congress which was frustrated. This would, if it had succeeded, have raised collective bargaining to a new level.

The commitment to formal structures of industrial democracy, enabling accountable trade union representatives to be elected on to the boards of companies, reached a high point in the earliest years of the Labour Government of 1974 onwards. The TUC had been persuaded of the need for counter proposals to put against the draft for a European company law, which sought to generalise a modified version of the German system of co-determination.

British trade unions objected to German Mitbestimmung on three grounds of principle. First, they believed that any elections for worker directors should be held through the established trade union machinery, in order to avoid a situation in which the workers' voices could be divided through divergent or even contradictory channels of representation. Secondly, they objected to the intrusion of company works councils which might undermine the unique representative role of the British shop steward system.

Thirdly, the Unions did not wish to participate in a minority role: they saw work people's involvement in company boards as an extension of normal collective bargaining in which there are two possible "votes": 50-50 or 100 per cent. Fifty-fifty is a "failure to agree", and constitutes a veto. A hundred per cent is an agreement, on which consensus

harmonious action is possible. Most radically, the TUC insisted that this 50-50 Board, with its enshrined veto power for the trade union side, should assume legal supremacy in company law, overriding the authority of the shareholders' meeting. With a wealth of supporting arguments, the TUC prepared a succession of drafts for industrial democracy laws, and when the Labour Government came to office it was pledged to legislate along these lines. The most significant apostasy of that Government was its refusal to do any such thing. Instead Harold Wilson set up the Bullock Commission to report on how such legislation could be framed, and then procrastinated for long enough to ensure that action on its recommendations became impossible. Harold Wilson was undoubtedly influenced to follow this course of action by some quite blatant threats which came from the City and the CBI, of a "strike of capital", should the TUC proposals be enacted.

The actual proposals of the Bullock Commission were an important dilution of the TUC's original policies. Notably, Bullock recommended the creation of an intermediary group of directors to be nominated by consensus of both shareholders' and employees' representatives, and to hold the balance between the two groups. This, the famous $2x+y$ formula, was much discussed at the time, but it did not actually persuade any employers' organisations of the acceptability of such a reform. Indeed, they maintained a strenuous lobby against the whole idea of industrial democracy by legislation. By contrast, the Bullock compromise was often cited by trade unionists as a reason for cooling their ardour for reform. The most important proposal of the Bullock team tended to be submerged beneath the commentary on the idea of an intermediary 'y' group of directors. In fact, basing itself no doubt on the strategic sense of Jack Jones, certainly the most far-sighted trade union leader of his time, the Commission had devised an arrangement of joint representative councils to co-ordinate the trade union input to company board elections. These joint councils would have provided a framework up to the company level which would have been a most notable legislative contribution to the development of trade union influence and unity, by generalising and facilitating through legal authority the emergence of the equivalent of shop steward Combine Committees.

The TUC's proposals for legislation on industrial democracy were an attempt to secure legislative expression for a vast secular movement based on full employment. The growth of plant bargaining and of workplace initiative by shop stewards was founded on the decisive fact that employers were competing for labour. Attempts to subordinate shop stewards to managerial interests were recurrent throughout the whole period of post-war industrial industrial relations, but they met with only the most ephemeral success. Full employment was the continual refresher of trade union independence, the stream from which trade union initiative was constantly renewed.

Collective bargaining might be thought to have reached its highest

point in this movement, which foundered in the rejection of Bullock's proposals. Now it has fallen far below that peak.

In 1984, by February, there were 3,186,000 people registered as unemployed, including school leavers. Cosmetic manipulation of these figures has removed many men of 60 from the obligation to sign on and from visibility in the statistics. As always happens, unregistered women also remain invisible, and together with those young people working on transitory schemes, these groups number well over a million people. With registered unemployment at 13.4 per cent of the employed population and rising, the meaning of many trade union practices is quite transformed. In many areas, and in many trades, not only are employers no longer competing for labour, but workers are actually competing to remain employed. A reign of fear grips large sectors of the economy, in which shop steward leaders such as Mike Cooley of Lucas, and Derek Robinson of British Leyland may be sacked with impunity, when employers become more combative.

Not only are bargaining advances far more difficult, but trade union institutions are themselves frequently transformed. The shop stewards' movement of today is different in many ways from the self-confident, resolute and inventive movement of the early '70s, which was raising its sights and widening its aspirations. In 1984, large parts of British trade unionism began a fateful year crouched in abjectly defensive postures.

Legislation directed at the widening of democratic powers can only be effective when there is a resolute movement for democracy which seeks such powers to achieve its social objectives. The most perfect charters for democratic reform are meaningless in the absence of such a real movement of people. For this reason, it makes little sense to reopen the argument on industrial democracy by seeking to step into its stream where Bullock stepped out. You can't step into the same river twice. There is a major role for legislative change, in restoring and securing trade union rights and capacities: but this role will not be asserted if we don't determine a careful order of priorities.

What kinds of laws do today's trade unions need?

Legal action is urgently needed to tackle two of the most acute problems which result from the imposition of monetarist doctrines. Unemployment must be drastically reduced, so that the trade union movement can recover its creative capacity and begin to move towards playing a full part in the renovation of industry in Britain. And the victims of recession and savage cuts in public services need to be rescued from poverty, if social solidarity, on which effective trade union and democratic forces depend, is not to break down irreparably. It is possible, prior to a General Election (for the European Assembly) to identify at least five main issues in which legislation can tackle these two overriding problems. During the referendum about Britain's

membership of the EEC, and again later in the first General Election to the European Assembly, innumerable promises were made by partisans of the Common Market. In every field of welfare, employment rights, health and social care, we were encouraged to believe that large improvements would follow British membership, as superior European standards came to be applied in the backward United Kingdom. In the field of industrial relations the comparisons were particularly telling, since more advanced industries in Europe had already established better standards in a number of areas. People remember the promises of those times, which are notable examples of electoral hyperbole, much to be honoured in the breach, little in the observance. The five themes into which a trade union campaign might be concentrated are these: (a) a national minimum wage; (b) shorter working hours; (c) longer holidays; (d) equalisation of trade union rights; (e) development of industrial democracy.

(a) A National Minimum Wage

At the beginning of 1984, the Trade Union Congress had to revise its guidelines on low pay. Basing itself on the notion that anyone receiving less than two-thirds of the average male manual earnings is in jeopardy, the TUC recommends that negotiators treat £98 a week as the figure below which low pay is defined. For a family, a weekly income of this much may well hover very close to the official poverty line. Nonetheless, very many workers receive far less than this, including innumerable governmental employees.

The gap between the highest and lowest paid people has been constantly widened through Mrs Thatcher's years of office. Partly this results from generalised economic pressures, during a vigorous slump in which the weakest have gone to the wall. But partly it flows from deliberate policies, enforcing monetarist prescriptions. Among the purposeful onslaughts on poorer people have been the abolition of the Fair Wages resolution, the undermining of Wages Councils, the running down of their staff and inspectors, the exercise of pressure to restrict their rates, especially for young people, and the wholesale encouragement of privatisation of public services. There has been an insistent propaganda from the more neanderthal ministers blaming unemployment on "high wage rates" and insisting on the withdrawal from ILO conventions designed to protect poorer people.

Not only ministers have been seeking to end the vestigial protection for low paid workers. A *Times* Leader[1] (20 December 1983) claimed that Wages Councils "tend to price young people out of jobs" and should therefore be done away with. A clear refutation of this unedifying argument is quite simple: the earnings of young people have fallen relative to those of adults since the middle 1970s, while youth unemployment has risen rapidly and continuously. Wage cutting has

been illegally imposed in the Young Workers' Scheme which provides employers with a weekly handout of £15 for each young person they retain on their books on a wage less than £42. Employers who are willing to do this do not have to show that the young people in question are newly employed, still less that they are undergoing any training. The subsidy is available on the sole understanding that the young people receive only the lowest imaginable pay. The House of Commons Public Accounts Committee reported in December 1983 that 77 per cent of the jobs which qualify for a Young Workers' Scheme subsidy would have been necessary whether or not the subsidy was available. The small number of jobs created, over and above these, were costing the Government almost five-and-a-half thousand pounds apiece. The easiest way for employers to qualify for a subsidy is to cut the pay of young people already on the books, or to set on new young employees whilst getting rid of older ones.

The *Times* refers to a research paper of the Department of Employment which suggests that a 10 per cent cut in the wages of young people might produce up to 100,000 jobs for young people. But 80 per cent of these jobs would be created by displacement of older workers. In fact, low pay produces low demand, and itself contributes to the spiral of decline and slump.

The Government's own view is encapsulated in a White Paper of 1983 (Cmnd. 9111) on *Regional Industrial Development*. "Imbalances between areas in employment opportunities should in principle be corrected by the natural adjustment of labour markets. In the first place, this should be through lower wages and unit costs than comparable work commands elsewhere. Wage flexibility, combined with a reputation for good work and a constructive attitude to productivity and industrial relations, would increase the attractiveness to industry of areas with high unemployment . . . The Government believe that wage bargaining must become more responsive to the circumstances of the individual enterprise, including its location. Their policies of privatisation, together with a reduction in the power of trade unions to act against their own members' interests, should help to achieve this". This is a very open attack on the trade union principle of the rate for the job (the common rate), as well as another typical expression of that government belief that workers are "pricing themselves out of work". Mrs Thatcher herself has abrasively enunciated this belief, as in this extract from a 1980 pronouncement: "If excessive wage demands are granted, one of two things will happen. Either workers price their products out of the market and lose their jobs, or, if they are in a monopoly industry and can hold the country to ransom, end up destroying the jobs of others". Novice students of economics could identify the flaws in this argument as a useful, if not too difficult, early exercise.

A very large proportion of the low paid are women, and one-and-a-half million of them are public service employees. No doubt this

accounts for the strong traditional support in the National Union of Public Employees for legislation to establish an official minimum earnings level. However, other trade unions have been slow to support this call. One reason for their reluctance is that women workers are less fully organised than men, and inadequately represented on the governing councils and in the annual conferences of unions in which they make up a large part of the membership. But a more acceptable reason for trade union reluctance to seek legislation on pay levels is quite simply that many unions feel that such legislation might remove the pressure on low paid workers to belong to a union. If such workers felt that their earnings were protected solely by government intervention would they see the necessity to continue to pay trade union subscriptions? This argument has, over many years, been heard in the debate among farm workers. They are covered by a Wages Council, which they often cite as a sufficient reason to explain the low density of trade union membership in their industry. But, whatever the explanation in such particular cases (and low-level unionism in farming has other causes), a *general* statute on minimum pay, for which the trade unions sustained a public campaign, would have a different effect on trade union consciousness; it would bring the issue out of the obscure, marginalised areas of Wages Council industries, into the centre of political controversy and debate, the position which it occupies in countries like France.

From the point of view of the Labour Party, this timidity on the part of affiliated unions has been a liability. Legislation would have been the quickest way to win support among legions of presently apathetic and non-political low paid workers. Hundreds of thousands of women's votes would mobilise themselves in its favour.

On 12 April 1983, a Bill was tabled in the House of Commons by Michael Meacher, Stuart Holland and a number of other Members of Parliament. It offered an ingenious solution to the problem which had for so long divided the unions. The Bill would establish a "minimum fair wage", which at the time in question it fixed at £100 a week, based on a normal stint of 40 hours. Employers would be required to enter into negotiations with appropriate trade unions in order to implement this fair wage. Employers of part-time workers would be compelled to concede a basic hourly rate proportionate to the minimum full-time wage.

Negotiations would begin within 12 months of the passing of the Act, and would need to be completed within two years of that time. The Act would only apply to the wages of employees who were represented by a TUC-affiliated union at relevant negotiations. This stipulation at once removes the main trade union objection to a legal minimum wage, since it preserves the union's crucial space in representing its members' interests.

Of course, employers have always argued that a national minimum would squeeze out many jobs, by pricing inefficient companies out of

their markets. The Fair Wage Act would meet this argument by providing for government financial assistance to companies which could not otherwise implement the new law. If the implementation of the Act would lead to redundancies or the closure of the company, then financial assistance would be made available subject to an economic audit according to Treasury criteria, which would be agreed with the Departments of Industry and Employment and the appropriate trade unions. If the employer was reluctant to apply for such assistance, then the trade union would be empowered to require him to do so, or alternatively to apply themselves for assistance on the basis of the conversion of the company to a co-operative or municipal enterprise.

A new British law to establish a compulsory basic wage would bring Britain into compliance with the European Social Charter, which lays down that "all workers have the right to a fair remuneration, sufficient for a decent standard of living for themselves and their families . . . the exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage fixing machinery or by other means appropriate to national conditions". Statutory machinery has operated in France since 1950, and in the Netherlands since 1945. In Belgium, there is a national minimum wage agreement between the trade unions and employers' organisations, within the framework of the National Labour Council, which is a statutory body. All three countries have linked their minimum rates to the Consumer Price Index, but only in France and the Netherlands are there arrangements to modify the national minimum alongside general living standards.

Numerous analysts have commented on the influence of minimum wage legislation in France, especially during the most recent electoral victory of President Mitterrand. Few can doubt that Mitterrand's promise to raise minimum wage levels by 10 per cent under the existing French legislation played an important part in the changeover which brought him to office. The promised measure was duly introduced in June 1981. The new larger minimum immediately benefited more than one-third of the labour in the clothing industry (although less than one-tenth had been covered by it before the increase). In the field of personal services the new minima covered almost one-half the labour force after the increase, although less than one-quarter had been protected before. In Britain, previous minimum wage protection has always been piecemeal, so that the absence of a statutory national figure has made it very difficult to generalise the protection of low paid workers. Perhaps the European Elections afford us an opportunity to revive this question, learning from the French. The only significant improvement which is needed by the Fair Wage Bill is that it should state a clear and precise hourly minimum when it is prescribing for part-time workers. In every other sense, the Meacher/Holland draft provides a perfect instrument for dealing with that crucially significant part of Britain's economy which is directly attributable to low pay.

(b) Working Hours

Even though unemployment waxes, institutional overtime in British industry never wanes. In December 1982, while three million people were already out of work, British manufacturing industry worked 9.66 million hours of overtime. In December 1983, this figure had risen to 11.36 million hours, whilst the incidence of short-time had fallen from 1.61 million hours at the end of 1982 to 0.46 million at the end of 1983. If it became magically possible to outlaw overtime, overnight a quarter of a million new jobs could be created. The number would increase as working hours were reduced.

In 1981, the TUC adopted a motion moved by Clive Jenkins of the ASTMS, instructing the General Council to campaign for a limit on the number of hours worked annually, reducing the working week "by statute to a maximum of 35 hours", providing a "minimum holiday entitlement of six weeks per annum, plus sabbatical leave after a stipulated number of years for all employees" and reducing "the qualifying age for retirement pensions to 60 years". In an eloquent support for this case, Clive Jenkins showed that engineering workers in Sweden were, at the time, working 1,500 hours annually, while in Belgium and Germany they were working 1,600 and 1,700 hours respectively. But "the British engineering worker is working 1,902 hours a year."

We must face it that there are a number of difficulties about implementing the call for a statute to fix a 35-hour week. The TUC has been carefully monitoring progress, and publishing a regular progress report. By 1983, it had monitored 57 separate agreements reducing hours by varying amounts from 40 down to 39 or 36½. Only one agreement was reported implementing a 35-hour week, in the exhibition industry, but this does not take effect until 1987.

The killer in this process is, of course, overtime. Overtime is concentrated and does not fall equally across the labour force. Workers who are doing overtime are, thus, normally, doing far more than the average hours of overtime. From April 1981 to April 1982, the average weekly hours of overtime per male manual worker actually rose from 4.5 to 4.9, having fallen the previous year. But average overtime hours per male manual overtime worker rose from 9.5 to 9.7 during the same period. The following year both these statistics fell, back to 4.7 and 9.3 respectively. The TUC is well aware of this problem which continues to be intractable. Indeed, in February 1984 it pointed out the fact that the percentage of workers who do overtime has actually been rising since 1981 from 46.8 to 49.8. The small decline in the number of overtime hours is more likely to reflect the depression than the results of trade union limitations. And in their scrutiny of these figures, the TUC tell us that "the tendency . . . for the percentage of people working overtime to rise from April 1981 must be a matter of concern".

The agreed basic weekly hours have been slowly declining, and manual

male workers now average a 39.2 hour week, compared to 39.9 hours which they would have expected to work in 1979. The following conclusions have been drawn by TUC researchers from the movement of working hours during recent years: men who are manual workers work a lot longer than other people. They average a 44 hour week, of which five hours are overtime. But the average is misleading, because half the manual male workers do not work any overtime, which means that the other half who do average 9½ hours of it a week. Women manual workers average 39.7 hours, of which only one hour is overtime. Only one-fifth of these women workers get any overtime at all, and so they average six hours of it a week. Non-manual working men work some 38½ hours, of which 1½ are overtime; but only one-fifth of these people actually do work overtime which means that those who get it average six hours a week. Non-manual women workers are on a 36½ hour week, of which only half-an-hour is overtime, and in fact only 12 per cent of these women get to work overtime at all, and they average three hours a week.

Between 1979 and 1983 the total hours worked by men who were manual workers declined by 2⅓, of which 1.6 were accounted for by a decline in the availability of overtime. Decline among other groups was very much less significant.

The TUC's campaign, and the efforts of affiliated unions, have effectively broken through the barrier of the 40-hour basic week, and it is clear that legislation could make a major contribution if only the unions could agree on how it should be framed. The problem is extremely simple to state, and very difficult to solve. Trade unionists will not say thank you for a law which cuts their earnings, and if overtime is forbidden then approximately half the male manual workers will be much worse off unless they are compensated for its loss. There is a very strong need for parliamentary draftsmen to consult with the TUC, if the Congress resolution of 1981 is to be implemented. Meantime concern with this matter grows throughout Europe, and it will certainly be discussed during the June 1984 Elections.

In West Germany, the trade union campaign for the 35-hour week bids fair to become the most severe and important struggle in which that hitherto quiescent labour movement has engaged since 1945. Already British trade unions have promised solidarity with it. The German unions case has been developed with characteristic comprehensiveness. They argue the job creation potential of a shorter work week, calling for commensurate new jobs to replace the hours "lost' by the reduction in working time. They also point to its beneficial effects on health and safety, and on the equalisation of domestic duties within family life as male workers in particular obtain more free time. They look forward to the liberating effect upon social awareness of a decisive breach in the customary trade union goal of "eight hours work, eight hours sleep and eight hours play".

(c) Longer Holidays

During the Referendum on British membership of the EEC, and then again in the first elections for the European Assembly, according to those who favoured Britain's adherence to the Common Market, a cornucopia of benefits was expected to open. Perhaps the most prominent among these was the benefit of increased holiday time. It was pointed out that Europeans enjoyed far better holiday entitlements that British workers: that they had longer annual vacations and more of them; that their statutory holidays outnumbered ours, sometimes by two or three times. The same TUC resolution of 1981 which sought a statutory 35-hour week also addressed the problem of holiday starvation which afflicts workers in British industry. But when we look at the problem with care, it seems very clear that legislation to standardise holiday entitlements is very much easier than legislation on weekly hours to be worked. Basic annual holiday entitlement in France and the Netherlands run at 5 weeks, and in many enterprises in Italy this is also true. Ninety per cent of workers in West Germany have obtained six weeks' or more annual holiday.

The TUC's official objective of six weeks holiday is in fact a modest one, although it would represent a substantial improvement in the conditions of most workers. It would be relatively simple to legislate a statutory holiday entitlement of six weeks. It would even be feasible to legislate to enlarge the size of the labour force in every firm by an amount commensurate with the increase in holiday entitlement. To invent an example which embodies the principle simply: if we were to legislate to give every person an additional month's holiday, it might well be possible simultaneously to require every employer to expand his or her labour force by 10 per cent. This would at once create some two million jobs, even allowing for the fact that some smaller employers would slip between the mesh on a net which would have to be loosely strung. Any such large redeployment of formerly unemployed people would liberate vast sums of dole money which could be used to ease the burdens of those employers who fell into resultant difficulties. Here a similar principle could be invoked to that we have already discussed in connection with the Fair Wage Bill. Of course, some people will argue that a month's additional holiday is a dramatically over-generous improvement in conditions. In that case, we could opt for a fortnight's additional improvement, and a 5 per cent increase in the size of labour forces. Indeed, we could create a sliding scale, upwards or downwards, aimed at directly facilitating work-sharing.

(d) Equalisation of Trade Union Rights

The Thatcher administration is associated with a blockbusting campaign to roll back trade union powers to the point where even the most docile conformity is viewed with suspicion. The Trade Union Bill of 1983 is

only the latest in a series of measures which are imposing heavier and heavier state controls on the operation of trade unionism. The spirit of the King Bill directly contradicts Article 3 of ILO Convention 87, which is entirely specific on this matter: "Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities, and to formulate their programmes. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof". Within weeks of the European General Election, it is likely that this measure will have to become law, so that the unions will not only be compelled to structure their internal rule books according to a number of very tight governmental prescriptions, but they will also be compelled to accept the most rigorous control over contributions for political purposes, which will now become illegal if they are not renewed in a decennial special ballot. Other organisations in society, and especially commercial concerns, have no such restriction on their system of choice about how to use their resources, and it indeed difficult to find any precedent for so systematic an onslaught on political pluralism.

Taken in conjunction with the earlier legislation of Messrs Prior and Tebbit, the removal of key parts of the Employment Protection Act introduced by an earlier Labour Government, and the dismantling of machinery for the protection of low paid workers, the Trade 1983 Union Bill represents only the latest stage of an uncompleted series of assaults on the industrial relations system of the post-Second World War settlement. The government openly plans further raids which will include the banning of industrial action in "essential" services and probably a widening of the ban on trade union membership in the GCHQ to other military and militarised sectors of the security and arms economy. No trade union will be able to operate freely until this attack has been reversed, and this will require more than a programme of repeal of offending legislation.

Some of the most obnoxious governmental onslaughts on unions have not required such legislation. Notably, the unilateral withdrawal of trade union rights at GCHQ in Cheltenham was the result of an administrative decision. Such decisions are being challenged in the international courts and fora, and these challenges will take time. While this is going on, it is very urgent for British trade unions to consider their own constructive legislative proposals, not only within the framework of the campaign for the restoration of trade union rights in Britain, but also at the level of similar international actions.

(e) Development of Industrial Democracy

The argument for company law reform, to increase trade union involvement in industrial decision-making, we have already argued, was given a notable impulse by European draft legislation. The British TUC

entered a long discussion as a result of the preparation of a draft statute for the structure of a European limited company, and we have seen that this stimulated the TUC to advance a far-reaching set of proposals which culminated in the Bullock Report.

We should note, however, that the legislative initiative from Brussels only worked to the extent that it provoked counter-proposals in Britain and other member states of the EEC. The weakness of attempts at legislation across the whole area of the EEC is that they invariably fall between two stools. Either they are seen as impositions, bureaucratically imposed, or they seek to establish a Feeblest Common Denominator. This reinforces the belief that, in spite of all the federal rhetoric, the best possibilities of international action come from an agreed convergence. Separate member states which agree to take similar action can accomplish more, and more quickly, than all the machinery of Brussels. Even so, in this case the Labour Government in Britain jibbed at taking the advice of British trade unions.

The joint effects of mass unemployment and harassment by illiberal legislation make it difficult to imagine that Bullock's proposals could ever be revived. A parallel set of proposals which featured in the Labour Party's campaign strategy in the early 1970s, and which has been generalised throughout Europe since, is the development of a series of "planning agreements", aimed at bringing multinational corporations into a structured relationship with governments and trade unions. Within this framework, it would be possible to develop the kind of argument which has been increasingly heard, for "resource bargaining" in which unions press for the allocation of new investment in particular areas, or the expansion of employment provision in existing ones. Planning agreements were put forward in the British Labour Party's 1973 programme, and the refusal to implement them was one of the major apostasies of the Wilson-Callaghan administration. But the proposal was not for nothing. That is has been taken up and implemented by Socialist Parties from Greece to Spain and Portugal clearly demonstrates its continuing relevance. That it has been possible to tackle the influence of multinational corporations in such a similar way, over such divergent territories, shows that federalism is not the only model for international co-operation.

There exist a number of other sources of inspiration for legislative models for industrial democracy. In the EEC, there is a battle over the implementation of the Vredeling proposals for the opening of the books of (particularly) multinational companies to trade union scrutiny. Although this is another Lowest Common Denominator, we should not overlook the possibility that it could stimulate not only a renewed debate in the British trade union movement on the requirements in this field, but also a more concrete channel for the development of a European level of trade union awareness. It is moreover, an issue on which the British Government and the CBI will find themselves increasingly isolated. In

the past few months these two bodies have concerted their increasingly strident opposition and made the most incredible claims for the "progress" made in British industry through "voluntary" encouragement of "employee participation".

In Britain, the whole prolific experience and experiment in new forms of local, trade union-based economic planning and job creation through municipal enterprise, pioneered by the Greater London Council, and the West Midlands and Sheffield Councils, require incorporation in any comprehensive programme of trade union demands for legislative support and encouragement. Local Enterprise Boards with trade union representation, local planning agreements, local sponsorship of workers' co-operatives and municipal economic enterprise, would greatly benefit from legislative enabling measures, and from the allocation of investment funds which would enlarge their coverage. The labour movement debate around the TUC/Labour Party Liaison Committee proposals for economic planning and industrial democracy has abated sadly since the election defeat of June 1983. It is not too early to revive it and to examine all the models on offer, including those from the "Popular Planning" networks of Combines and Trades Councils, and from the Institute for Workers' Control.

The very fact that the Conservative Government has been so merciless in its onslaught on political pluralism and so determined to reduce trade unionism to a shadow, means that it becomes not only possible but also to a degree necessary for the trade unions to address themselves to the problem of company law reform. This is possible, because Mrs Thatcher has removed many taboos, and provoked people to think more radically. It is necessary, because the weakening of trade unions by mass unemployment as well as legislative encroachments will mean that they will not easily resume some of their traditional roles while unemployment remains at record levels. The British Conservatives registered the quite unjustifiable claim that trade unions are a favoured type of organisation because they have hitherto been entitled to certain immunities for behaviour in restraint of trade. How a trade union might operate without such immunities is not easy to imagine. However, this onslaught by the Thatcher team has distracted people's attention from a far more powerful privilege, which is enjoyed by every major capitalist organisation: the principle of limited liability. The capacity to avoid personal responsibility for debts incurred on one's personal initiative is, by any count, a remarkable advantage. Well over a century ago, the argument for this degree of licence was heard in the absence of an organised mass labour movement. Now it is time to reopen the question. As a modest first step, the principle of limited liability should surely be subordinated to an affirmative vote of employees, at regular intervals. The easiest way to make this effective would be to require every company to submit to the Registrar an annual statement of satisfactory labour relations, with its audited accounts. Such a statement would need to be

endorsed by the responsible trade union organisation involved. Failure to submit the statement would automatically revoke the privilege of limited liability, thus rendering all shareholders responsible in full for any failure by the company in which they held investments. This moderate measure would strengthen trade unions during the period of their convalescence, while they recuperated from the gross debilities imposed by monetarism.

The Labour movement throughout Europe is being tested by a crisis which is as much political as economic. Attempts to resolve this crisis by arbitrary means can only succeed in making it worse. If we can keep clear heads through these present adversities, we can bring about a notable advance in the democratic organisation of industry and society. Surely, it is quite unthinkable that an age of microcomputers, lasers, and widespread robotics will for long conform to the prejudices of the more backward Victorians? There is a future in which human capacities can grow to match and outpace the results of invention. Already this future lives in the imaginations of multitudes of people. How long can it be prevented from asserting itself in our public order?

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