THE DENNING LECTURE
1984

TRADE UNIONS ON TRIAL

Lecture given by

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Yes - that is my theme - 'Trade Unions on trial'. They have been on trial for the last 150 years. Before the judges, before Parliament, before the people of England. The argument has swayed to and fro. Now it comes to me to sum up. I will go through the evidence. Have patience: for there is a good deal to go through. At the end I will ask you for your verdict.

You will see two forces engaged. On the one side there is the law with its prosecutions, injunctions and damages. On the other side there are the trade unions with their strikes, pickets and blacking. Sometimes one has the mastery. At other times the other. You will see it as we go through.

The Tolpuddle martyrs

I start with the Tolpuddle martyrs. Everyone has heard of them, but few know much about them. Today is appropriate to remember them. It was 150 years ago - almost to the day - 19 March 1834 - that they were sentenced to transportation for seven years.

It was in 1833 in the village of Tolpuddle in Dorset. The farm labourers were being paid a starvation wage of nine shillings a week (45p). They sought an increase to ten shillings (50p). The landowners refused. So six Tolpuddle men formed a branch of the new trade union movement. It was then sweeping the country. Their leader was George Loveless. He was, in the words of the poet:

> 'Some village-Hampden, that with dauntless breast
> The little tyrant of his fields withstood.'

The six met in an upstairs room in the village. They admitted four new members from the neighbouring village of Affpuddle. They went through an initiation ceremony. It included an oath of secrecy. The local magistrates regarded their activities as 'dangerous and alarming' and reported them to the Home Secretary, Lord Melbourne. The Government were genuinely afraid of a rural insurrection by farm labourers all over the south of England. They were determined to crush it. Lord Melbourne authorised the prosecution of the six. But what offence had they committed? The law officers racked their brains. They

searched their books. They found nothing. So they trumped up a charge against the six men. It was under an out-dated Act of 1797. It had been passed to deal with a mutiny and sedition in the fleet. It made it unlawful to administer an oath in that connection. The six were arrested. They were made to tramp the seven miles to the gaol at Dorchester. They were tried at the Dorset Assizes. When asked whether they had anything to say, George Loveless handed up a piece of paper on which he had written:

'My Lord, if we have violated any law, it was not done intentionally; we have injured no man's reputation, character, person, or property: we were uniting together to preserve ourselves, our wives and our children, from utter degradation and starvation. We challenge any man, or number of men, to prove that we have acted, or intended to act, different from the above statement.'

The judge was quite unmoved. He held, quite wrongly, that the 1797 Act was still applicable. He sentenced the six quite savagely to the maximum, saying, quite wrongly, that he had no discretion: 'You and each of you be transported for seven years.' They were taken, in irons, to Portsmouth, rowed out to the hulks (the prison ships), thence to a convict ship, and on to Botany Bay.

Meanwhile, at home there were protests all over the country - from all sections of the community. Two years later, in March 1836, the King, on the advice of his ministers, granted a free pardon to all the men: thus acknowledging that they had been wrongly convicted and wrongly sentenced.

What could the trade unions do?

This left the way clear for trade unions. All over the country branches were formed - both in the industrial north and the agricultural south. But what could they do? I am sorry to say - according to the judges - practically nothing. In the first place, the judges treated them as having no existence in law. They were nonentities, like the members of a club. This was an error. In the words of Professor Dicey:

'When a body of twenty or two thousand, or two hundred thousand men, bind themselves together to act in a particular way for some common purpose, they create a body, which by no fiction of law, but by the very nature of things, differs from the individuals of whom it is constituted.'

In the second place, whenever the members of a trade union tried to do something effective, the judges declared it to be unlawful - on the ground that it was an improper interference with the trade or business of the employer.

Strikes illegal

Take first a very ordinary strike. It was in 1850 at a tin works in Wolverhampton. The manufacturer employed a work-force of 50 men. Their wages were disgracefully low. They all joined the local branch of the trade union. The committee decided to call a strike for a rise in wages. They induced all the rest to come out too, using all the arts of persuasion known to them, including drinks at the local inn. The committee were charged with a criminal conspiracy on the ground that they had 'molested' or 'intimidated' the rest into joining the strike. They were found Guilty and sent to prison for three months. The case was *Reg. v Rowlands.* [1] The judge declared that, although they had a right to combine to get a rise in wages, they had no right to injure their employer by stopping his business, i.e. by striking.

Pickets illegal

Take next the setting up of pickets. This time it was tailors in London in 1867. [2] They came out on strike for higher wages. Their employers thereupon took on other men who were not members of the union. The strikers set up pickets who did nothing except give 'black looks' at those coming in. Baron Bramwell told the jury that they were guilty of a criminal conspiracy. His words were so wide as to convey that a trade union was itself an illegal combination. The reason was that its purposes were in restraint of trade. It was interference with the freedom of the employer to conduct his business as he thought fit. It was a criminal conspiracy.

So in 1867, the law had struck hard. Strikes were illegal. Pickets were illegal. Trade unions were illegal.

Gladstone to the rescue

The declaration of Baron Bramwell led to a struggle on the political front - Liberals versus Conservatives. The Liberals, under Mr. Gladstone, came to the rescue of the trade unions. They passed the Trade Union Act 1871. It liberated the trade unions. They were no longer unlawful combinations. They were legal entities. They could call men out on strike and set up pickets to a limited extent. But only on condition there was no violence or intimidation of any kind. There was a question over what pickets were allowed to do. [3] It was at the works of J Lyons. As each man came to work, the pickets handed him a card: 'You are hereby requested to abstain from taking work with J Lyons.' The court held that this was unlawful. The pickets were at liberty to 'obtain or communicate information' but not to persuade. So they could say to the men coming to work: 'Good morning, it is a fine day' - but not say: 'Don't go to work today.' Peaceful persuasion was unlawful.

1 **Reg. v Rowlands** (1851) 17 QB 671.
2 **Reg. v Druitt** (1867) 10 Cox 592. 3 **J Lyons v Wilkins** (1896) 1 Ch 811.

The year 1900

All that was in the Nineteenth Century. In 1900, the first year of the Twentieth Century, the judges were still deciding against trade unions. They were 'hitting them for six' by awarding damages against them. There was first the great *Taff Vale* case. [1] To understand it, you must know that the trade unions were virtually friendly societies. The members paid their subscriptions into a fund out of which benefits could be paid to members if they were ill or out of employment. Now in the *Taff Vale* case the railwaymen's union called a strike at the railway station at Cardiff. The men left work and set up peaceful pickets so as to persuade others not to go to work. The trains could not run. The company lost money. The railway were advised to bring an action against the union itself, seeking an injunction and damages. The Court of Appeal threw out the action. But the House of Lords, in a startling judgment, overruled the Court of Appeal. They issued an interlocutory injunction against the trade union itself, restraining it from setting up the pickets, and said that the railway company could recover damages which could be enforced against trade union funds. Later, at the trial itself, the damages were assessed at £23,000 and that sum was paid out of the funds of the trade union. £23,000 in 1900. What would that be now?

In the eyes of trade unions, that was an outrageous decision. It meant that the railway company could take all the funds subscribed by the members so as to meet the damages. It meant that in future a trade union could never call a strike, else it would be in peril of losing all its funds. It meant virtually the end of trade unions. As G M Trevelyan says in his *History*: 'It struck at the very heart of trade union action.'

That was followed a week later by another action for damages. [2] It was over a meat supplier, Mr. Leathem, in Belfast. He supplied meat to butchers' shops. Some of his men belonged to the trade union. Some did not. The trade union sought to make it a 'closed shop.' They tried to make him employ only union men. They called out their members who were employed by Mr. Leathem. They brought pressure to bear on his customers, the butchers, so as not to buy their meat from him. All in breach of contract. Mr. Leathem brought a civil action against the leaders of the trade union. It was for damages for conspiracy. The jury awarded £750. What would that be now? This was upheld by the House of Lords on the ground, as I read it, that it was a wrongful interference with a man in his trade or business. It was another set-back for trade unions. Whenever they took action, they might be liable for damages.

1 **Taff Vale Rly Co v Amalgamated Society of Railway Servants** (1901) 1 QB 170: (1901) AC 426 (HL).

2 **Quinn v Leathem** (1901) AC 495.

The earthquake in 1906

Those cases had immense political consequences. At the general election of 1906 there came into being a new political party. It was the Labour party. They ran a host of candidates themselves. They pledged complete immunity for trade unions. Many of the Liberal candidates gave the same pledge. The result of the general election was like an earthquake. Liberals had 397 seats. The new Labour party had 50 seats. The Conservatives only 157. It was a sweeping victory for the trade unions.

Parliament immediately passed the Trade Disputes Act 1906. It is probably the most important Act ever put into the Statute Book. It reversed all the judicial decisions against trade unions. The *Taff Vale* case was overruled. No trade union could thereafter be sued for damages for any wrongs done by its members. Its funds were unassailable. The butchers' case, *Quinn v Leathem*, was overruled. An act done 'in contemplation or furtherance of a trade dispute' was not actionable even if it did induce someone to break a contract of employment or interfere with a person's business. The definition of 'trade dispute' was widened so as to include disputes, not only between employers and workers, but also workers and workers. The case about pickets was overruled. It was lawful for pickets peacefully to persuade persons to abstain from working.

A giant's strength

This statute endowed the trade unions with irresistible might. They were immune from any legal process. They took full advantage of it. In many areas they built up strong fortresses called the 'closed shop.' A trade union in a particular industry would insist that every person in that industry should belong to that union. If the employer ventured to employ a non-union man, the trade union would insist on his dismissal. Otherwise they would call a strike. The employer had to give in and dismiss the man. They maintained their regiments at full strength by insisting on the 'Bridlington principle' (named after the Trades Union Congress where the matter was discussed). This laid down that if a man wanted to change his allegiance from one union to another, he was not allowed to do so. He had to remain with his first choice. No 'poaching' was allowed. They exercised strict discipline over their members. If anyone refused to take part in a strike, he would be expelled from the union, with the result, if it was a 'closed shop', that he would lose his job.

The unions used their forces, not only against the employers, to increase the pay, but also for other causes. In demarcation disputes, they would go on strike to enforce their demands. In sympathetic strikes, men not concerned would come out in support of those who were. They did not hesitate to inflict injury and inconvenience on the innocent public. They would bring essential services like coal, rail and electricity to a standstill in order to get what they wanted.

The trade unions waxed so strong they had the strength of a giant. They exerted it so greatly that the cry went up, with Shakespeare:

> 'O! it is excellent
> To have a giant's strength, but it is tyrannous
> To use it like a giant.'

The general strike

On one occasion they over-reached themselves. It was in 1926 by calling a general strike. I remember it well. Together with other young members of the Bar, I joined as a special constable. We patrolled outside the great power station in Lots Road, whilst the soldiers were inside. We had our truncheons and arm-bands - I have mine still at home - whilst the soldiers inside had their rifles and bayonets at the ready. There were some threatening scenes but, as it turned out, no violence against us.

The strike arose out of a trade dispute between the miners' union and the employers. The miners were backed by the Trades Union Congress. They called out all their affiliated unions in railway, transport and other trades. Pickets were set up so as to stop railway workers, merchant seamen and so forth going to work. But the seamen's union complained to the courts because their union rules had not been complied with. Mr. Justice Astbury granted an injunction. He said: [1] 'The so-called general strike called by the Trades Union Congress Council is illegal, and persons inciting or taking part in it are not protected by the Trade Disputes Act 1906....No trade dispute does or can exist between the Trades Union Congress on the one hand and the Government and the nation on the other.'

This interpretation of the law was reinforced by a speech by the Home Secretary, Sir John Simon, in the House of Commons. The trade unions accepted this interpretation of the law, and as they were not prepared to break the law, the strike collapsed.

A come-back

On a later occasion the law staged a come-back. But it was short-lived. It was in 1964 in *Rookes* v *Barnard*. [2] Mr. Rookes was a skilled draughtsman at London airport. He was a member of the draughtsmen's union. They had a 'closed shop' in the design office. He got dissatisfied with the union and resigned his membership of it. The leaders of the union asked BOAC to dismiss him. They threatened BOAC that, if they did not dismiss him, all their members would come out on strike in breach of their contracts. BOAC submitted to the threat. They did dismiss Mr. Rookes. He brought an action against the leaders of the union for

1 **National Sailors' & Firemen's Union v Reed** (1926) 1 Ch 536, 539.
2 **Rookes v Barnard** (1964) AC 1129.

damages. The House of Lords held that he had a cause of action for damages for intimidation and that the leaders of the union had no defence under the 1906 Act. He was awarded £7500 damages against the leaders.

This was a blow to the trade unions which was almost as injurious as the *Taff Vale* case. Much of their conduct could be described as 'intimidation' and the leaders could be liable in damages.

As it happened a Labour Government was in power. They soon over-ruled *Rookes* v *Barnard*. By the Trade Disputes Act 1965, intimidation of that kind was not actionable.

The 1971 Act

By this time the trade unions were becoming very unpopular. They had misused their powers. They had called strikes in essential services which had inflicted great loss and inconvenience on hundreds of thousands of innocent people. At the general election in June 1970 the Conservatives were returned to power with a mandate to curb the powers of the trade unions. They introduced a major bill into Parliament for the purpose. It had a stormy passage. It was bitterly opposed by the Labour party who were and are the champions of trade unions and the supporters of their immunities. It became the Industrial Relations Act 1971. The Labour party announced that they would repeal it when they next came into power. Most of the trade unions refused to register under it. They did not treat the Industrial Court as a court of law. They refused to acknowledge its authority. They would not appear before it, nor argue before it. They regarded it as a tool of the Government, put there to enforce a repressive law.

The 1971 Act is shattered

The contest came to a head over the container revolution. Goods by sea were all being carried on big containers. These containers were filled and emptied - not at the docks - but at warehouses well inland. So the dockers at the quayside were losing their jobs. In their anger they picketed the inland warehouses. The Industrial Court ordered three dockers to be committed to prison. As soon as the news broke, all the dockers of England stopped work. The ports were paralysed. The three dockers would not apply to be released. They wanted to be martyrs. But a *deus ex machina* appeared. It was the Official Solicitor. He applied for their release. The Court of Appeal released them. It was hailed with triumph by the trade unions. At a mass meeting of dock workers on Tower Hill on 19 June 1972 Mr. Steer, one of the three dockers, said: [1]

'We consider this one of the greatest victories in industrial history in this country. Furthermore, if any other trade unionist, no matter where he

1 **The Times**, 20 June 1972.

comes from, is placed in prison for daring to have the temerity to defend his living, then we will come out on strike in his support. Our policy of no compromise has led to victory. We can be proud, as our stand has made the biggest loophole in the most pernicious piece of legislation passed this century.'

A few weeks later there was a repeat performance. But it was five dockers this time. The Industrial Court jailed them for contempt. Again the dockers all over the country came out on strike. The ports were all paralysed. Again a way had to be found to release them. It was not the Official Solicitor this time. It was in consequence of a decision of the House of Lords. The five dockers were released, just as the three had been. Again the trade unions were victorious.

Never again could the Industrial Court enforce its orders by imprisonment. The 1971 Act had failed. The reason for its failure was the attempt to enforce it by imprisonment. It brought about a strike which would have paralysed the trade of the country. The Conservative party had tried confrontation. It had failed. The Labour party offered conciliation. It was worth a try. At the general election in March 1974 the Labour party was returned to power. They had a mandate to repeal the Industrial Relations Act and did so.

On getting into power, they passed Acts in 1974 and 1976. Not only did they repeal the 1971 Act. They restored the immunities which had been given by the 1906 Act and extended them further. So much so, that the trade unions used their weapons - of strikes and blacking - more boldly than ever. They used them to further their political objectives. For instance, they objected to the policy of apartheid adopted by the Government of South Africa. Many countries opposed it. The United Nations opposed it. The International Confederation of Trade Unions opposed it. They called for 'International Solidarity' to oppose it. In answer to this call, the Union of Post Office workers here called on all its members to 'black' South Africa for a week. They were to stop the mail to South Africa and to boycott all telephone calls to South Africa. This was plainly unlawful. It was a criminal offence. But the Labour Government refused to intervene. A private individual, Mr. Gouriet, got the Court of Appeal to do so. [1] But the House of Lords said it should not have done so. The union should have been left free to 'black' South Africa, even though it was contrary to law.

A few months later, another trade union also took action against South Africa. It was a trade union of broadcasting staff. It was at the time of the Cup Final at Wembley. It is broadcast all over the world. The viewers in South Africa see it by means of a satellite stationed in space

1 **Gouriet v Union of Post Office Workers** (1977) QB 729 (CA); (1978) AC 435 (HL).

above the Indian ocean. The trade union instructed its members not to allow this transmission during the Cup Final - thus depriving not only the viewers in South Africa, but also those in Australia, New Zealand and elsewhere. This was patently political. The Court of Appeal granted an injunction against the trade union leaders. [1] The Cup Final was transmitted to South Africa.

Strong methods

Not only did the trade unions seek political objectives. Even in industrial disputes, they used strong methods. A good instance was the Grunwick dispute. It was in 1977. The Grunwick company had two factories in London processing films sent to them through the post. They employed immigrant labour. A trade union called APEX sought to get the work-force to join the union. Some did, but most did not wish to do so. APEX claimed to be recognised by the company for collective bargaining. The company refused. APEX mounted mass pickets outside the factories. There were violent scenes. Police were kicked and injured. APEX got help too from the Union of Post Office Workers. They refused to handle or deliver mail for Grunwick. All very regrettable. ACAS recommended that the company should recognise APEX but the Court of Appeal set it aside. [2]

Secondary action

But the most telling steps taken by the trade unions were by way of secondary action. Men in one firm would come out on strike for higher wages. That was primary action. Then the union would call out men in another firm (who had no dispute with their own employer) to come out too or to 'black' the goods of the first firm. This secondary action came to a head in two leading cases.

The first was in 1978. [3] There was a dispute in the provincial newspapers. The local journalists working on those papers wanted more pay. The owners refused. They said they could not afford it. The National Union of Journalists called out the local men on strike. That was not effective because the provincial newspapers got 'copy' for their papers from other sources. The union took other steps which were also ineffective. Eventually they told their members on the national newspapers, including the *Daily Express*, not to use 'copy' coming from the Press Association. This was 'secondary action' of an extreme description. Their members on the *Daily Express* had no quarrel with their employers. Yet they were being ordered to damage their business in this way. The Court of Appeal granted an injunction to stop it. But the House of Lords held that the union were immune by virtue of the statute.

1 **BBC v Hearn** (1977) 1 WLR 1004.
2 **Grunwick Ltd v ACAS** (1978) AC 655.
3 **Express Newspapers v McShane** (1980) AC 672.

The second case arose out of the great steel strike. [1] The steel industry is divided into two sectors: the public sector run by British Steel, and the private sector run by private firms. The men in the public sector were dissatisfied with their wages and came out on strike. The men in the private sector were content with theirs and did not want to strike. Yet the steel union called out the men in the private sector. It was again extreme 'secondary action'. The Court of Appeal granted an injunction. But the House of Lords again held that the union were immune.

Then in 1978-79 there was a 'winter of discontent' when the trade unions showed their might. Garbage piled up in London streets. The dead were refused burial. Patients in hospital were denied treatment. Fire brigades would not put out fires. Trains did not run. The Government was under the thumb of the trade unions.

The Acts of 1980 and 1982

All this then recoiled on the trade unions. At the general election in May 1979 a Conservative Government came into power. As in 1970 it had a mandate to curb the powers of the trade unions. It enacted the Employment Acts of 1980 and 1982. These made great changes. In the first place, by section 15 of the 1982 Act they took away the statutory immunity for actions for tort. This meant that the decision in the *Taff Vale* case was restored. The funds of a trade union could be made available to meet any damages awarded against it or any fines imposed upon it. If a union was about to commit any wrongful act, an injunction could be issued to restrain it. And if it did commit a wrongful act, it could be made liable in damages. In the second place, by section 18 of the 1982 Act it amended the definition of 'trade dispute' so as to confine it to disputes between workers and their own employers, and then only as to their wages and terms and conditions of employment. In the third place, by section 17 of the 1980 Act it made the union liable for many kinds of 'secondary action', that is, action taken against employers not parties to the original dispute. In the fourth place, by section 16 of the 1980 Act it allowed peaceful picketing at the man's own place of work, but not at other premises. In the fifth place, it pushed open the doors of the 'closed shop' so that a man could refuse to join the union if he had a deeply-held personal objection to being a member of a trade union.

Already, there have been several cases under the new legislation. They show that it is becoming very effective.

'Blacking'

'Blacking' is often unlawful. This is shown by a case on 'flags of convenience'. [2] Many ships nowadays are registered under 'flags of

1 **Duport Steels Ltd v Sirs** (1980) 1 WLR 142.

2 **Merkur Island Shipping Corpn v Laughton** (1983) 2 WLR 778.

convenience'. This enables them to employ seamen from countries like India or Hong Kong at low wages. They are only too glad to have employment at low wages. They have no complaint against their employers, the shipowners. But an important trade union objects to them. It is the International Transport Workers' Federation. If one of these vessels comes into an English port - and is ready to depart - this union will instruct the lockmen and tugmen to 'black' her - and not let her depart. Under the previous law, they were immune from legal action. But under the new Act, the 'blacking' has been held by the House of Lords to be unlawful. It is 'secondary action' which is prohibited by section 17 of the 1980 Act.

Political motives

In another case [1] political motives were disallowed. In 1983 there was a project under which the telecommunications industry was to be transferred from the nationalised corporation to a private concern. This met with much objection from the existing employees. In order to demonstrate their objection, they refused to make inter-connections with a private company. They claimed that it was a trade dispute on the ground that their job security was imperilled: but the Court of Appeal held that the predominant motive was to stave off privatisation. It granted an injunction.

Enforcement

But the most important change effected by the new legislation is the new powers of enforcement given to the courts of law. This was shown by the case of 'the Stockport Six.' [2]

In the middle of 1983 Mr. Shah published a paper called the *Stockport Messenger*. It was issued free to the public, being paid for by advertisements. He printed it at Warrington. Most of the men were non-union men, but six of them were, or became, members of the National Graphical Association (NGA). The NGA wanted it to become a 'closed shop'. Mr. Shah refused. He sacked the six - called 'the Stockport Six'. Their dismissal may have been fair or unfair. We do not know. But if it was unfair, they could have complained to the Industrial Tribunal and sought reinstatement. But they do not appear to have done so. Instead, the NGA took up the cudgels on their behalf and demanded their reinstatement. Mr. Shah refused. He did not give in to their demands. The NGA then took steps to organise mass pickets at Warrington outside the works of Mr. Shah so as to prevent his delivery vans from leaving.

Now mass picketing is an offence under the criminal law. It is also a

1 **Mercury Ltd v Scott-Garner** (1983) 3 WLR 914.
2 Not yet reported.

wrong under the civil law because it is intimidation - designed to make the employer do what he has a perfect right not to do. Before the 1982 Act the NGA would have had immunity from a civil action or an injunction because it would have been 'in contemplation or furtherance of a trade dispute'. But now it no longer has immunity.

Mr. Shah obtained an injunction against the NGA to restrain the mass picketing. They disobeyed the injunction. They called thousands to Warrington and mounted a military operation to stop the delivery vans. There was a pitched battle between the police and the demonstrators. Mr. Justice Eastham took a firm line. He fined the NGA for contempt of court. At first £50,000. Then £100,000. Then £525,000. The NGA did not pay. So the court ordered their funds to be sequestrated to meet the fines. Although the NGA are said to have assets of £10,000,000 they could not long stand fines of that magnitude. They did talk of more mass picketing but wiser counsels prevailed. They did not attempt any more.

The NGA went, however, beyond mass pickets. They were so upset by the fines that they took action against the national newspapers who were not involved in the dispute in any way. They called a strike of all their members for one day. All the national newspapers were stopped, causing the loss of many millions of pounds. This was 'secondary action' which was claimed to be unlawful under the 1980 Act. Twelve national newspapers issued writs against the NGA, claiming damages up to the top limit of £250,000 each, making £3,000,000 altogether.

The NGA threatened to call another one-day strike to stop the national newspapers. The newspapers got an injunction to stop it. The NGA sought to get the backing of the TUC. The TUC General Secretary, Mr. Len Murray, made the important pronouncement that they could only support action that was lawful. They would not support it if it was unlawful. So the NGA did not go on with the strike. They decided to purge their contempt and to ask for their assets to be released from the sequestrator: but they said they would maintain their campaign in opposition to the 1980 and 1982 Employment Acts.

The whole country was grateful to Mr Murray and the moderate members of the TUC General Council for their pronouncement. It seemed to herald a new attitude of the trade unions towards the law.

A set-back

But these hopes were soon to suffer a set-back. It arose out of the Government Communications Headquarters (GCHQ) at Cheltenham. About 7,000 are employed there on highly secret intelligence work. They were members of the Civil Service trade unions. In 1981 these trade unions called out their members on a one-day stoppage. They issued a statement saying:

'There will be a range of selective and disruptive action which will affect Britain's secret communications surveillance network. There will be both national and international repercussions'.

The Government could not sit down under such a threat to our national security. They decided that the staff should not be permitted to belong to a trade union. So they offered each person this option: £1,000 cash on resigning from the trade union; or being transferred to other work; or losing their jobs. The trade union movement was incensed. They called on their members to stop work for a half-day in protest - save for the staff at GCHQ. They were to continue work normally. That was most illogical. If any persons had any grievance and were to strike, it would be the staff at Cheltenham. The calling out of the others for a half-day was quite unlawful. It was secondary action aimed solely at the Government. To make things worse, one of the printing unions - quite unlawfully - stopped publication of all the national newspapers for one day, causing them great loss.

As it turned out, these unlawful actions were quite ineffective. Ninety per cent of the staff at Cheltenham accepted the £1,000 and gave up their trade union membership. This telling defeat will, I hope, recoil on the trade unions: and will teach them that they must not act unlawfully again.

The lesson seems to have been learnt. Since then, we have had the dispute about Mr David Dimbleby's newspapers. He had them printed by his own printing company. This company announced that some men were to be made redundant. Their union, the National Graphical Association (NGA), which is a closed shop, took exception to this and called a strike of the Dimbleby printers. They would not print the Dimbleby newspapers. So Mr Dimbleby shut down his printing company and got his newspapers printed by a printing company in Nottingham which was not a union shop. It did not employ any union men.

Now this action was very annoying to another union, the National Union of Journalists (NUJ). The NUJ told their members to 'black' the Dimbleby newspapers, that is, not to supply any 'copy' to them. Thereupon Mr Dimbleby applied to the courts for an injunction against the NUJ. All the courts up to the House of Lords granted an injunction.

The NUJ had then to decide whether to obey the injunction or not. Their leaders decided to obey it. *The Times* made this observation: 'However, the strike will continue unofficially and the union leaders made it clear that they were prevented from supporting it officially only by the threat of having funds seized by the courts.'

These cases show that the trade unions are having a trying time. They have to decide whether to obey the orders of the courts of law. For over 70 years they were immune. Now, if they disobey, they are liable to fines and

damages and to having their assets sequestrated. This has made them concentrate their minds wonderfully. No trade union can survive for long with its assets seized, sequestrated and depleted.

What does the future hold?

What, then, does the future hold? What will the trade unions do? Will they obey the law? Or will they resist it by force or by general strikes? Will they campaign for the repeal of the 1980 and 1982 Acts: and seek the restoration of the immunities which they had previously enjoyed since 1906? Would such a campaign have any chance of success? I should think not. The ordinary people of England will well remember the abuses to which immunities gave rise.

Such is the impact of the new legislation. It does not mean the end of the trade unions. Far from it. They will have much work to do for the well-being of their members. They will consult with management and co-operate with it. In case of disagreement, they will still be able to call strikes - within the limits laid down by law. They will still be able to set up pickets - within the limits laid down by law. They will still be able to 'black' goods or transactions - within the limits laid down by law. But they must not go beyond those limits. They must keep within the law. That is fundamental in our constitution.

It is the lesson we have learnt over the centuries. The rule of law must be maintained. Just as in war 'England expects every man this day to do his duty' - so also in peace England expects every trade union every day to do its duty. And that is to obey the law.

But what, then is to be your verdict? So far as the Nineteenth Century is concerned, it will be that the trade unions were persecuted and oppressed. But so far as the Twentieth Century is concerned, it will be that they exploited their immunities beyond measure. But what should be the sentence? Now that their immunities have been taken away, I would ask that they be put on probation. If they obey the law of the land, they should go free: for they have more useful things to do for their members. But if they should flout the law, they will find that their end will be at hand.