

# FOCUS



## A SERF'S CHARTER

'It would have been unthinkable a few years ago', a leading SOGAT activist writes in his union's special paper of Rupert Murdoch's Wapping plant, 'for a Fleet Street employer to open up a custom built "high security" printers staffed with non-print union labour just a stone's throw from the street'. But the unthinkable has now become an undeniable reality, presenting a new dimension to the management offensive in Fleet Street. With Associated Newspapers, the *Daily Telegraph* and *The Guardian* all set to join Mr Murdoch in starting up a plant in docklands, the print unions are under no illusion that the outcome of their battle with Murdoch will set the pace for the rest of Fleet Street. The national newspaper industry is highly competitive and if one management, such as Murdoch, successfully deunionises or wins a single union agreement with the electricians, then as sure as night follows day the other proprietors are bound to make the same demands.

The consequences for the traditional print unions - the NGA and SOGAT - if they fail to win entry to Wapping are so wide-ranging that the unions have been forced to offer unprecedented concessions - direct input, a ban on strikes held without a ballot, binding arbitration that can be triggered by either side, a reduction in the number of chapels and an offer of a ballot on the continuance of the closed shop. The unions have only balked at the concept of legally binding agreements that ban strikes during the lifetime of the agreement. However, the unions' offer of binding arbitration on any issue triggered by either side does in effect give

Murdoch the opportunity to nip any strike in the bud by referring it to arbitration.

The quality of the unions' objections to legally binding agreements is likely to be central to the debate over the dispute at Wapping and may well revive many of the debates current at the time of the Industrial Relations Act 1971. Already the trade paper, the *UK Press Gazette* has been eagerly pointing out that European countries have assimilated legally binding agreements and that this fact has helped minimise unofficial strikes. The News International management for their part claim the unions' real objection is that they are fearful of the damages claims that will rain down on them and their members once they breach such an agreement.

In reality the union's objections are, of course, based on a healthy distrust of the impartiality of the judiciary and of anything that increases the opportunity for judges to interfere in industrial relations. But there is also a more complex objection rooted in the traditional structure of British industrial relations.

Otto Kahn-Freund, the distinguished labour academic and key figure behind the Donovan Commission's advocacy of non-binding collective agreements, argued as early as 1943; 'British collective labour law is in one respect unique among the legal systems of the larger industrial countries. Trade Union recognition was achieved in this country by purely industrial as distinct from political and legislative action. No Wagner Act, no Weimar Constitution, no *Front Populaire* legislation has imposed upon British employers the duty to enter into negotiations with trade union representatives. The proud edifice of collective labour regulation was built up without the assistance of the law'.

Kahn-Freund came to see the non-interventionist role of the British legal system as an expression of a mature society where collective bargaining is a continuous process of joint consultation, as opposed to an annual or biennial set-piece of collective bargaining over the wage contract.

Legally binding agreements, involving a peace obligation or a no-strike, no-lock out clause, reduce the points of pressure that unions can apply on management. The inability to take rapid industrial action over a sudden development vastly reduces the exercise of continuous bargaining pressure, thereby reducing the degree of influence workers can retain over the organisation of production. Moreover, such agreements inevitably encourage management to attempt to make that agreement as comprehensive as possible, covering as many issues as conceivable, since once a matter is cited in the legal agreement it cannot be the subject of collective bargaining, backed by the threat of strike action, until the agreement has expired.

Moreover in Britain, uniquely in Europe, workers are at a supreme strategic disadvantage if they strike at the expiry of the contract. In Britain, unlike Europe, there is no positive right to strike. As a result workers that take strike action are deemed to have broken their individual contract of employment and may be dismissed without compensation so long as all those on strike are dismissed. In most European countries, a strikers' contract is deemed to have been suspended and as a result his/her employment rights are not terminated. If Britain ends up courtesy of Rupert Murdoch with a legal system whereby collective agreements are legally binding and at the same time there is no positive right to strike protected by law, we will really have ended up with a Serf's Charter, even if it is not one given much prominence by the men and women that put together our national press.

Patrick Wintour