

Strike laws and party politics

By Georgina Hirsch, 11 Nov 2014

How changes to trade union balloting and membership records are linked to next year's election

In a speech to his party conference last month, David Cameron declared that the Conservative Party is a trade union. Some might have found this a surprising statement, but an attempt to divide 'good' from 'bad' trade unionists was argued for in a blog on the Conservative Home website over a year ago.

Does this herald a new era of support for trade unions by the government?

Legislation

The Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014 was passed earlier this year (the government is still consulting on its implementation). The Act will require trade unions to audit their membership annually and submit a certificate to this effect to the Certification Officer (the body that maintains a list of trade unions and employers associations). The Certification Officer will be able to require trade unions to produce relevant documents, and appoint inspectors to investigate, where it appears a union has failed to ensure its register of members' names and addresses is kept up-to-date as far as is reasonably practicable. Unions with more than 10,000 members will be required to appoint a qualified independent person as an 'assurer', who will complete their membership audit certificate for them.

Technically this provision does not impose an increased standard of record keeping on trade unions, as the standard referred to is already set out in the Trade Union & Labour Relations (Consolidation) Act 1992 (Section 24). However it's likely that the CO's workload will be increased. For example, the CO has only recently delivered a decision on a challenge to the election of the Unite union's general secretary. The challenge was based on arguments over the correct treatment of trade union membership records. The CO rejected the complainant's request for the union to be required to disclose its records on the basis that this was a 'fishing expedition'. Employers wishing to obtain injunctions to prevent strike action will have an incentive to trigger such CO investigations and challenge membership audit certificates when the new provisions are implemented.

Carr enquiry

The Cabinet Office commissioned the Carr review earlier this year into the law governing industrial disputes and especially 'leverage campaigns' (trade union activities used to apply pressure outside official action). The enquiry was intended to recommend changes to the law on strikes, if found to be necessary, but a government policy announcement in July

declared action before any recommendations had been made. Cabinet Office minister Frances Maude announced that the Conservative manifesto would include a pledge that strikes would be unlawful unless at least 50 per cent of the eligible union members had actually voted in the strike ballot. Bruce Carr QC alluded to this in his foreword to the report, when explaining why he ceased the enquiry before fully delivering on his terms of reference.

Party politics

There have been various proposals from the Conservative Party on changing the requirements for strike ballots. The impediments to strikes seem likely to increase further if the next election returns a Conservative government. The Maude proposals have been seen by many as an attack on trade unions. TUC general secretary, Frances O'Grady, has said of the minimum voting numbers provision that "Not a single MP would have been elected under these rules." Manifesto proposals also plan to make unlawful picketing a criminal (rather than civil) offence; make ballots more complicated by forcing votes on individual aspects of a dispute; and force unions to re-ballot every three months where a strike is ongoing.

The 'Conservative Party trade union' may be a re-branding exercise aimed at winning back working class voters, but is also part of a strategy to make strikes more difficult to start and more difficult to continue.

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