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Education

cc: Mr. Hoskyns

MR. SCHOLAR

Teachers' Pay

Sir Keith Joseph's letter of 21 March does I think confirm that we were right to insist that the Department of Education use their veto on increased pay offers, and resist arbitration: it is clear that if they had not, 5.9% would certainly have been offered, and probably rejected. Our hands are therefore still clean, which will make our position much easier in the forthcoming arbitrations.

The enclosures to Sir Keith's letter relate to the issue, which is now becoming important, of the circumstances in which we could ask Parliament to set aside an arbitration award. I have discussed this with the Attorney General's Department, because the papers, though long, are by no means clear. The guts of the legal advice seem to be as follows:

i) The criteria for our approaching Parliament are a matter of propriety, not law. The Government has to be satisfied that it has a reasonable case in terms of national economic circumstances. The legal judgement on that case is of course the vote in both Houses.

ii) In order to be satisfied that there is a sufficient case, the Government must make it clear that it is taking an exceptional step, but it does not have to show that there is a national emergency or crisis.

iii) It would be much harder for the Government to make a reasonable case if pay settlements elsewhere within the public services are running at levels around or over the arbitration award which the Government is seeking to set aside.

Subject to the reaction of the Chancellor, the Prime Minister may feel that Sir Keith Joseph should be asked to confirm his own understanding of this legal advice - which comes down to saying that

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there is no legal obstacle to our seeking to set aside an arbitration award, as long as it is not lower than whatever we accept as the Civil Service settlement.

J.

John Vereker
1 April 1982