

High court outlaws strike at British Airways

Jordan Shilton, Chris Marsden
19 May 2010

The ruling by Britain's high court outlawing 20 days of strike action by British Airways (BA) cabin crew has fundamental implications for the working class. The right to take industrial action faces its greatest threat since the turn of the 20th Century.

The strike was banned under the flimsiest of pretexts, based on the argument that the Unite union, which represents over 12,000 cabin crew at the airline, failed to give a breakdown of the results of the strike ballot to its members that included the number of spoiled ballots.

In reaching his decision, Mr. Justice McCombe overturned a mandate for a strike by more than 80 percent of the membership of BASSA (British Airline Stewards and Stewardesses Association), Unite's BA affiliate, in a February ballot. This is the second time that strike action at BA has been banned, using the Trade Union and Labour Relations (Consolidation) Act of 1992, legislation that amounts to an open-ended charter for the courts to prohibit any struggle against the employers.

The blatantly political character of the ruling was evidenced in the justification for the verdict as a "balance of convenience", with the judge deciding that to let the strike go ahead under current circumstances would result in too high a cost to BA and its passengers.

The implications of the latest ruling go far beyond preventing the latest strike from taking place. With the February ballot having been deemed illegal by Monday's decision, there now exists a real possibility that BA could pursue a claim against Unite for the seven days of strikes that took place in March. BA claims to have lost £43 million during this period, meaning it could demand compensation from the union. The *Guardian* reported that this claim could reach £250,000.

There is an obvious historical parallel between this week's events and the 1901 Taff Vale verdict. Then a

suit was brought by the Taff Vale Railway Company against the Amalgamated Society of Railway Servants (ASRS), following a two-week strike for higher wages that was defeated by strike-breakers. The company successfully sued the ASRS for violating the Protection of Property Act, with the court ruling that a union could be sued for damages caused by a strike and effectively outlawing strike action.

On every political criterion, however, the situation today is significant for its differences with the situation in 1901.

Taff Vale had the effect of galvanising support for the Labour Representation Committee, formed two years earlier by the Trades Union Congress to establish "a distinct Labour group in Parliament", which won 29 seats in the 1906 General Election and signalled the birth of the Labour Party. This also led to the passage of the 1906 Trades Disputes Act, overturning Taff Vale and granting the trade unions legal immunity from damage claims.

Today, the trade unions have no intention of waging any struggle against the anti-union laws, while the Labour Party bears direct responsibility for the ability of BA and other employers to wage their offensive against the right to strike.

The anti-union laws were drafted and refined by the Conservatives in the 1980s and 1990s. Between 1980 and 1993 there were six Acts of Parliament restricting the trade unions' ability to undertake lawful industrial action. These included preventing secondary sympathy strikes, restricting picketing, imposing postal ballot requirements, needing to give seven days notice of a strike, allowing employers to gain injunctions from the High Court to stop strikes if there was doubt of their legality and—in a return to the situation before 1906—allowing for fines and the seizure of assets, as happened in 1984 during the miners' strike.

The anti-union laws were retained almost unaltered

by Labour when it took office in 1997. Moreover, it was Labour that introduced the amendment in 2004, stipulating that unions are required to provide detailed information on who has been balloted for industrial action, etc. This has revealed itself to be a strike-breaking charter, used this year alone against workers at BA and also preventing a strike at Network Rail planned by the Rail, Maritime and Transport union (RMT).

In the last five years, 37 injunctions have been applied for, of which almost all were granted.

This week's decision prompted angry comments from the leadership of Unite, proclaiming it as "an absolute disgrace" and a "landmark attack on free trade unionism and the right to take industrial action. Its implication is that it is now all but impossible to take legally protected strike action against any employer who wishes to seek an injunction on even the most trivial grounds".

Brendan Barber, general secretary of the Trades Union Congress (TUC), called it a "desperately worrying judgment.... This—and other recent decisions—begin to make it look as if there is no effective right to strike in today's Britain".

Unite is appealing the ruling at the High Court, with three of the UK's most senior judges, including the Lord Chief Justice, hearing the union's arguments. It has also said it would ballot again for a strike. But should an appeal be granted, and even if it were successful in this particular case, the anti-union legislation would remain on the statute books and can be strengthened yet further.

But neither Unite, nor the RM—or any other TUC-affiliated union—has any intention of launching the type of challenge now required to defeat the anti-union laws they have abided by now for 30 years.

At BA workers now face the imposition of £80 million in cuts, which has seen 1,000 jobs lost since last year, and another 4,900 targeted for destruction in what CEO Willie Walsh—a former trade union bureaucrat—terms "permanent structural change".

Unite has throughout sought to keep the strike of cabin crew under control, while it attempts to cobble together an agreement with management. Early on Monday, prior to the court ruling, Unite joint general secretary, Tony Woodley, had in fact stated that agreement had been reached "on all substantive issues"

with BA.

BALPA, the airline pilots union, has been yet more naked in its treachery, denouncing the planned strike by cabin crew, appealing for intervention by the new Conservative-Liberal Democrat government against "what are tired 1970s-style industrial relations" and pledging to work "normally", i.e., strike break, should it still go ahead.

These events are a portent for the future, the implications of which every worker in Britain and worldwide must understand.

The trade unions today are not defensive organisations against the employers, but a fifth column charged with demobilising opposition in alliance with their fellow lackeys of big business in the Labour Party and directly with both the Tories and corporate management.

With millions more workers faced with attacks just as savage as those at BA, an entirely new perspective is required. Its starting point must be the formation of rank-and-file committees to conduct the struggle such as that at BA entirely independently of and even against the trade unions.

Most fundamentally, workers are engaged not only in industrial conflict with this or that employer, but a political struggle against the government, the judiciary and the entire apparatus of the state. They need their own party, the Socialist Equality Party, to take this struggle forward.



To contact the WSWs and the Socialist Equality Party visit:

wsws.org/contact