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THE LEGAL SECRETARY
ATTORNEY GENERAL'S CHAMBERS

ATTORNEY GENERAL'S CHAMBERS,
LAW OFFICERS' DEPARTMENT,
ROYAL COURTS OF JUSTICE,
LONDON, W.C.2.

28th November 1984

Andrew Turnbull, Esq.,
Private Secretary,
Prime Minister's Office,
10 Downing Street,
LONDON, SW1.

Dear Turnbull

MINERS' DISPUTE: SEQUESTRATION OF THE NUM'S ASSETS

114
The Attorney General reported to the Prime Minister on 14th November that he had given an indemnity to the sequestrators appointed by the court, Nicholls, J, following the non-payment of the fine imposed on the NUM for contempt of court. The fact that the indemnity has been given could become public later today after the Financial Secretary has submitted a memorandum to the Liaison Committee which includes a reference to the indemnity. The memorandum is submitted as part of the Consolidated Fund Act procedure.

/ I enclose a copy of a list of questions and answers that we have prepared in consultation with the Treasury Solicitor and the Department of Energy for use in connection with answering press inquiries and Parliamentary Questions. The information contained in square brackets after the answer to question 12 is intended as background information to the answer and should not be disclosed.

I am copying this letter to Gerald Hosker (Treasury Solicitor's Department) and Geoffrey Claydon (Department of Energy).

Yours sincerely,
Stephen Hyett.

A. S. HYETT

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THE INDEMNITY BY THE ATTORNEY GENERAL TO THE SEQUESTRATORS OF THE NUM'S ASSETS

Possible Questions

1. What are the legal proceedings referred to in the ~~memorandum~~ ^{indemnity} memorandum?

They are proceedings to enable the assets of the NUM to be brought under the control of the sequestrators who were appointed by the High Court (Nicholls J.) on 26 October 1984 in the case of Taylor and Foulstone v. National Union of Mineworkers (Yorkshire Area) and the National Union of Mineworkers following the non-payment of a fine imposed on the NUM for contempt of court.

2. What does the indemnity cover?

The costs and expenses reasonably and properly incurred by the sequestrators in carrying out their duties in pursuance of their appointment by the court.

3. Why was the indemnity given?

In order that the sequestrators would not be prevented by lack of resources from carrying out their duties.

4. Why was the indemnity given by the Attorney General?

It is the proper concern of the Attorney General, as guardian of the public interest, that the law should be upheld and the orders of the courts should not be ignored or defied with impunity.

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5. Why has the Government given an indemnity in this particular case, to which it is not a party, and not in others?

Each case would be considered on its merits, but it was thought that this case involved highly unusual considerations of particular public importance. The sequestration was not ordered to enforce a judgement in favour of one of the parties to the action. It was ordered following the non-payment of a fine imposed for deliberate contempt of court by the NUM. The NUM not only made it clear that it would not obey the order of the court, but it tried to put itself outside the reach of the court by transferring its assets abroad. The Government considers that it is important that the NUM should not be able to defy and frustrate the orders of the court in this way.

6. Has the Government paid out any money under the indemnity?

No.

7. Is not the effect of the sequestration to punish the members of the NUM, not its officials?

We are concerned only with the indemnity, not with the order appointing the sequestrators or with the fine imposed on the NUM for contempt of court. In any case, it is not for us to comment on an order of the court.

8. Under what legal power was it given?

Under the common law powers of the Crown [A "one off" exercise - therefore no Parliamentary impropriety under the 1932 Concordat between the PAC and the Treasury. It is permissible to rely on the Vote provision alone.]

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9. Why was the House only informed by means of a Supplementary Estimate?

There was adequate information supplied with the estimate.

10. Why was a minute about the contingent liability not laid before the House?

The information supplied with the Supplementary Estimate provided all the relevant details.

11. Is the liability under the indemnity unlimited?

Yes. If the sequestrators are successful in taking early control of a significant amount of NUM funds, it is unlikely that the Crown will have to make any payments under the indemnity. If there is a delay before the sequestrators are successful, any payments by the Crown under the indemnity will be repayable by the sequestrators out of NUM funds subsequently recovered by them.

12. How many firms of lawyers are involved on behalf of the sequestrators?

Five. Apart from the sequestrators' London solicitors, firms are currently instructed by them in the Republic of Ireland, Luxembourg and Switzerland. There were also proceedings initiated in the Isle of Man but these have recently been discontinued.

[Isle of Man

The action has now been abandoned.

Estimate of the legal charges incurred £3000.

12. (contd.) Republic of Ireland

Estimate of the costs so far £25,000.

Luxembourg

Estimate of the costs so far £5000.

Switzerland

Estimate of costs so far £5000.

London

Clifford-Turner: [Costs so far estimated at £20,000]

13. What is the estimated amount of the sequestrators' costs to date which are covered by the indemnity?

About £30,000.

14. Can the sequestrators start new proceedings and be covered by the indemnity?

Only if they consult the Attorney General and he agrees that the indemnity will apply to the new proceedings.

15. What other expenditure is covered by the indemnity?

Any payments which may be due under a cross-undertaking which may have to be given in the Dublin proceedings.

16. Has the Government given indemnities to sequestrators before?

We do not know of any other case where the Attorney General has given an indemnity.

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1 - £4.6M. OF NUM CASH FROZEN

ACCOUNTANTS APPOINTED BY THE HIGH COURT TO SEIZE THE ASSETS OF THE MINERS' UNION HAVE TRACED AND FROZEN £4.6 MILLION HELD IN A LUXEMBOURG BANK ACCOUNT IN THE NAME OF TWO PAID OFFICIALS.

THE NEWS WAS GIVEN TODAY TO MR JUSTICE NICHOLLS, THE JUDGE WHO ORDERED SEQUESTRATION OF THE UNION'S £8.9 MILLION NATIONAL ASSETS AFTER IT FAILED TO PAY A £200,000 CONTEMPT FINE.

MR HOWARD PAGE, COUNSEL FOR SEQUESTRATORS PRICE WATERHOUSE, TOLD THE JUDGE THAT THE MONEY WAS PART OF THE £8.4 MILLION ORIGINALLY TRANSFERRED BY THE NUM TO DUBLIN AND LATER TO A NEW YORK BANK.

SOME OF THE REMAINDER OF THE MONEY WAS IN A SWISS BANK ACCOUNT, HE SAID.

THE MONEY IN LUXEMBOURG WAS HELD IN THE NAMES OF THE UNION'S HEAD OF ADMINISTRATION, TREVOR CAVE, AND ITS CHIEF FINANCIAL OFFICER, MR STEPHEN HUDSON, IN AN ACCOUNT AT NOBIS-FINANZ INTERNATIONAL.

IT HAD BEEN FROZEN BY AN ORDER GRANTED TO THE SEQUESTRATORS BY A LUXEMBOURG JUDGE ON NOVEMBER 14.

(MORE FOLLOWS)

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