

FILE - to RB

SUBJECT  
cc Master



25A

10 DOWNING STREET

*From the Principal Private Secretary*

SECRET AND PERSONAL

SIR ROBERT ARMSTRONG

COAL DISPUTE: SEQUESTRATOR'S ACTION IN DUBLIN

The Prime Minister discussed your minute of 1 February (A085/352) with the Home Secretary, the Attorney General and yourself this morning. Mr. Henry Steel and Mr. Gerald Hosker were present.

The Attorney General explained that the sequestrator, Mr. Larkins, had told his solicitors, Messrs Clifford-Turner, of contacts which he had had with you; and these reports had been repeated to the Deputy Treasury Solicitor by Messrs. Clifford-Turner. It appeared that Mr. Larkins had also given an account to his counsel and solicitor in Dublin, and it was possible that the judge and the NUM's lawyers in Dublin would have heard of this account. This would explain some apparently irrelevant points which the judge had given notice that he proposed to ask about, specifically about the extent of the intervention in the sequestrator's action by the Attorney General. There were also signs that the newspapers were getting on to this story.

The Attorney General continued that, following the recovery of the NUM's funds in Luxembourg, he had made it clear that he would have no objection if the sequestrator decided not to pursue the case in Dublin. But the sequestrator's Irish lawyers had advised in favour of continuing the case, and the sequestrator had obtained the

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authority of Mr. Justice Nicholls for doing so even though Mr. Justice Nicholls was aware that the sequestrator had been advised that he had a less than 50 per cent chance of success. The Attorney General had no power to direct the sequestrator and, if the sequestrator were now to withdraw his action on the third day of the case, it was likely that costs would be awarded against him and would have to be met from the Government's indemnity. There was therefore a public interest in continuing with the case.

The Home Secretary said that he shared the Attorney General's view that the sequestrator's case should not be withdrawn. But the sequestrator should not be drawn into giving details of contacts with the Government in answering questions from the judge or counsel for the NUM.

In discussion, it was confirmed that contacts between the sequestrator and the British Government were not relevant to the case before the Irish courts. It could be admitted that the sequestrator had had contacts with the Attorney General and the Treasury Solicitor about the indemnity. If questions went beyond that, the sequestrator's counsel should object. If the judge ruled that the matter was relevant, it was essential that the sequestrator did not give further details of contacts with the British Government even if this prejudiced his case.

Summing up the discussion, the Prime Minister said that, in answer to the expected question from the judge about contacts between the sequestrator and the Attorney General, it could be said that the sequestrator had had contacts with the Attorney General and the Treasury Solicitor over the indemnity, but that there had been no question of the Government giving instructions to the sequestrator about the performance of his duties. If the questioning went beyond this, counsel for the sequestrator should object on grounds of relevance and in any case the sequestrator should not give further details of contacts with the British Government beyond saying that such contacts were for the purpose of

obtaining information and did not involve the taking of instructions. Sir Robert Armstrong should prepare a line which could be taken in Parliament and communicate this to the Secretary of State for Energy in case the matter was raised during the debate in the afternoon. The Deputy Treasury Solicitor should arrange for the sequestrator to be advised of the importance of sticking to this line if any further questions were asked of him about contacts with the Government.

I am sending a copy of this minute to Mr. Taylor (Home Office), Mr. Steel (Attorney General's Office), and to Mr. Hosker (Deputy Treasury Solicitor).

F.R.B.

4 February, 1985