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FROM: CHIEF SECRETARY  
DATE: 17 April 1985

PRIME MINISTER

**COAL INDUSTRY BILL AND MINeworkERS'  
PENSION SCHEME**

I have seen Peter Walker's minute to you of 9 April about the mineworkers' pension scheme and the forthcoming Coal Bill, and your Private Secretary's letter of 15 April.

2 I see the difficulties over retrospection, but there must be a strong case for removing this anomaly for the future. As well as the deterrent effect to which Peter refers, there should be long-term savings to public expenditure (since the cost of making good pensions for any future strikers would reduce NCB's profits and increase their external financing needs). I agree legislation could be left over for the next Coal Industry Bill. In the meantime, I hope Peter will encourage Ian MacGregor to see whether there are any legal or administrative loopholes that the NCB can exploit to reduce the prospective financial burden on the Board.

3 Such pension costs from the recent strike that NCB cannot avoid over the next two years will have to come from the overall £2 billion figure for deficit grant agreed in Peter's letter of 28 March and Nigel Lawson's response of 10 April. That reinforces the need for early implementation of a sensible closure-programme for loss-making pits to which your Private Secretary's letter referred.

4 I am sending a copy of this minute to the Lord President, the Lord Privy Seal, the Secretaries of State for Employment and Energy, the Attorney-General; and to Sir Robert Armstrong and First Parliamentary Counsel.

*AS*  
for PETER REES

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[Approved by the Chief Secretary]

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Coal #17



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17 APR 1963



## 10 DOWNING STREET

From the Private Secretary

15 April 1985

Dear Michael,

The Prime Minister has now seen your Secretary of State's minute of 9 April about the Coal Industry Bill and the Mineworkers' Pension Scheme. Subject to the views of colleagues she agrees with your Secretary of State that there should not be retrospective legislation on miners' pensions. Nor does she believe that the Coal Industry Bill is a suitable vehicle for prospective legislation to disqualify periods of strike for pension credit. Such a provision would best be discussed in the context of legislation on the restructuring of the coal industry rather than in a Bill to provide the finances needed by the National Coal Board over the next two financial years. For the moment the Prime Minister would prefer to concentrate on the implementation of a sensible closure programme for loss making-pits.

I am sending copies of this letter to Janet Lewis-Jones (Lord President's Office), Rachel Lomax (HM Treasury), David Morris (Lord Privy Seal's Office), David Normington (Department of Employment), Richard Broadbent (Chief Secretary's Office), Henry Steel (Law Officers' Department), Richard Hatfield (Cabinet Office) and First Parliamentary Counsel.

*Timothy Flesher*

*Tim Flesher*

(Timothy Flesher)

Michael Reidy Esq  
Department of Energy

*RF*

CONFIDENTIAL Prime Minister:

Prime Minister  
Surely the Govt.  
Should at least take  
the provision at X/  
overleaf.

Agree with Peter  
Walker, not to act  
retrospectively on miners  
personal contributions, subject to NO

CCNO

PRIME MINISTER

to caveat set out in Percy Unit  
note which is flagged?

12/4  
N

It just isn't right for FERB 14.4  
COAL INDUSTRY BILL AND THE MINeworkers' PENSION SCHEME

This kind of bill would be a disaster on future life

loss-making pits closed.  
nb

You will recall that we agreed in February that we should proceed urgently with preparation of legislation, for introduction this session, to provide additional finances for the National Coal Board. You will have seen my letter of 28 March to Nigel Lawson seeking early agreement to the figures for inclusion in the Bill.

I am now writing about another matter affecting the Bill, which is of both political and financial importance. I have for some time been concerned that under the existing rules of the Mineworkers' Pension Scheme miners might be eligible for pension in respect of periods on strike despite the fact that they paid no contributions. In addition, the NCB would remain under an obligation to pay employer's contributions in respect of these periods and would over a period carry the burden of making good any deficiencies in the pension fund resulting from the loss of employee contributions. For some time ahead all these costs would probably ultimately fall on the taxpayer. The cost of this situation for the period of the recent strike, including the employer's contributions for strikers, could amount to about £125 million, of which about half would have to be met in 1985/6.

I understand that when, in 1975, the Scheme was changed to provide a pension based on the best 3 years of earnings rather than a modest flat rate pension, it was also changed to allow strike periods to count for pension benefit for the future. In 1978 this concession was applied to the period before 1975 by a further change.

Against this background I decided before the strike ended to seek the advice of Michael Havers on the legal position and the possibilities for making changes. Ian MacGregor has naturally been anxious to avoid these liabilities. I now have Michael Havers' advice. He confirms that if we are to avoid having to protect strikers' pensions in this way, primary legislation will be necessary. I understand that he sympathises with the desire to change the present position. However, he draws attention to the fact that any legislation which applied to the period of the recent strike would mean interfering with rights already acquired under the Agreement into which the NCB entered in 1975; and doing so in

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respect of a past period - the year or so since March 1984. Legislation which covered the recent strike period would thus have an important element of retrospection.

We could argue in Parliament that there was a very strong case in equity for removing this burden from the NCB and the taxpayer. We could permit strikers to make good their unpaid contributions for the strike period over say, 5 years and provide that matching NCB contributions would then be payable. We could argue that nobody in 1975 contemplated pension credit for a strike lasting a whole year. We could point out that the present rules penalised the working miners, who have paid their contributions throughout but will get the same benefits as strikers who paid nothing for a year. We could do our best to give the legislation a forward-looking flavour by focusing it on the employee contributions and deficiency payments which the NCB have not yet made, but may be due to make in the future. We could also avoid applying the new rule to those who have retired already, during or since the strike.

But whatever efforts we made, and however reasonable our case in equity, there would be no concealing the fact that we were altering the rules retrospectively for the period since 1 March 1984. Indeed, it seems almost certain that to achieve the main saving, that date would have to appear in the Bill. And the substance of the matter would be rightly seen as taking away pension credit from strikers in the recent coal strike.

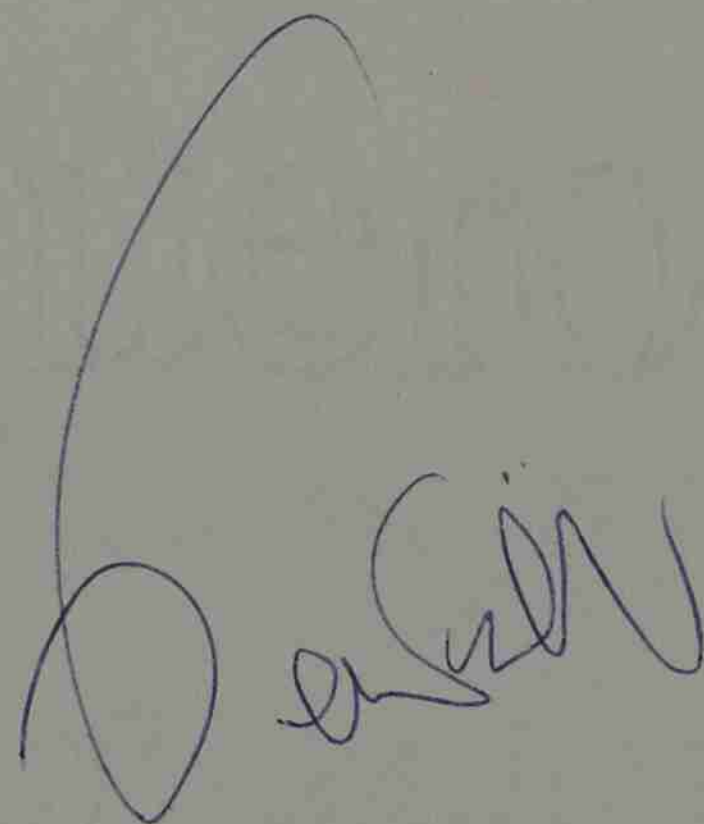
I do not believe that we can do this. I believe we would have great trouble with many of our own people on the principle of retrospection. We would also be accused of vindictiveness. And it seems to me very unlikely that we could get the legislation through the House of Lords. Both the sanctity of agreements and the principle of retrospection would be argued against us. I conclude therefore that it would be a mistake to attempt to legislate on this point in respect of the strike period.

X It would be possible to include in the Bill a clause which disqualified periods of strike for pension credit unless afterwards made good, but did so only from the date of Royal Assent. That would apply a modest extra deterrent to striking for the future, and would put the coal industry on what I understand to be the same basis as the rest of the public sector. There is of course no prospect

that the change could be effected by agreement with the NUM. But there would be no immediate gain to the NCB or to public expenditure and we would still be introducing a potentially controversial element into the Coal Industry Bill.

wpb 201  
Given the speed with which we need to finalise the text of the Bill, I would be glad to know as soon as possible whether you and other colleagues are in agreement with the conclusion I have reached against legislation on this pension point. I also need urgent agreement on the figures discussed in my letter of 28 March. I would very much like to bring the Bill to L Committee on 17 April, and must do so without fail by 24 April.

I am copying this minute to the Lord President, the Chancellor of the Exchequer, the Lord Privy Seal, the Secretary of State for Employment, the Chief Secretary, the Attorney General; and to Sir Robert Armstrong and First Parliamentary Counsel.



Secretary of State for Energy

9 April 1985