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Prime Minister (2)

MLS 30/3

Caxton House Tothill Street London SW1H 9NA F

Telephone Direct Line 01-213 6400

Switchboard 01-213 3000

GTN 213

Michael Scholar Esq
Private Secretary
Prime Minister's Office
10 Downing Street
LONDON SW1

29 March 1982

Dear Michael

COAL AND THE RAILWAYS

Your letter of 16 March about the Prime Minister's meeting the previous day records that my Secretary of State was asked to consider urgently whether there was a need to alter the terms of reference under which ACAS operated. I understand that the particular point of concern revolves around the selection of Lord McCarthy to be Chairman of the Committee of Inquiry which ACAS set up in February during the ASLEF industrial action.

ACAS was established as a statutory body by the Employment Protection Act 1975. The legislation was designed to ensure the complete operational independence of the Service (the Act expressly provides that ACAS shall not be subject to directions by Ministers as to the exercise of its functions); and also to ensure that it can operate only on the basis of advice, persuasion and consent. ACAS has no statutory powers enabling it to impose its views or wishes on anyone.

The Act enables ACAS, at its discretion, to offer assistance to parties in dispute. This can be by means of conciliation, arbitration or inquiry, according to the Service's judgement of the particular circumstances and the attitudes of the parties concerned. The origins of this particular dispute go back a long way, and you may recall that ACAS first became involved when their conciliation averted the threatened national strike by all three rail unions last August. The agreements reached at that time were subsequently fully honoured by the NUR and TSSA, but not by ASLEF; and this led to further difficulties in December. When ASLEF began their industrial action in January I understand that ACAS had considerable reservations about the usefulness of setting

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up a Committee of Inquiry but came under considerable public pressure to do so, particularly from the NUR and TSSA.

When this was eventually agreed, the choice of a Chairman for the Inquiry was essentially a matter for discussion between ACAS and the parties concerned. In agreeing on Lord McCarthy they were no doubt influenced by two main considerations. First, as Chairman of the industry's own standing arbitration tribunal he already knew a great deal about the background and history of the dispute. Secondly, for the same reason his views might be expected to carry weight with all of the parties concerned, including ASLEF whose obduracy thus far had been based in part on their claim that the industry's own agreed procedures had not been fully observed.

At all events, the choice of Chairman and side-members was agreed by all of the parties concerned, excluding of course ASLEF who could not be persuaded to participate in any way. Similarly, the terms of reference for the Inquiry were settled by discussion and agreement between the parties. My Secretary of State's view is that this does not bring the terms of reference of ACAS into question since no Inquiry with any prospects of helping resolve the issues could have started without a sufficient degree of consent and co-operation on the part of most of the parties involved. He doubts whether any amendment to the general statutory duty of ACAS would have affected the course of events in this dispute.

I am sending copies of this letter to the recipients of yours.

Yours

Bernard Shaw

J B SHAW
Principal Private Secretary