



10 DOWNING STREET

From the Principal Private Secretary

9 January 1986

Dear Mike,

THE CIVIL SERVICE UNIONS AND POLITICAL FUNDS

The Prime Minister held a meeting this afternoon to discuss the matters raised in your Minister's minute of 3 January. The Chancellor of the Duchy of Lancaster, Secretary of State for Employment, Paymaster General, Chief Whip, Solicitor General, Minister of State Privy Council Office, and Sir Robert Armstrong were also present.

The Prime Minister said that it was agreed that the Government should oppose the affiliation of a Civil Service trade union to a political party. The question for decision at this meeting was the Government's reaction to moves by the Civil Service unions to the establishment of political funds. The following were the main points raised in the discussion:

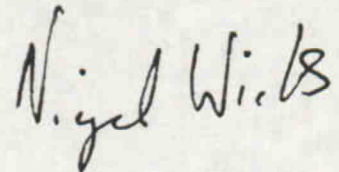
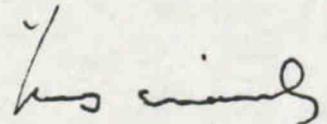
- (i) There was disagreement between the Government's legal advice, that the Trade Union Act 1984 did not materially alter the law on political funds in the Trade Union Act 1913, and the legal advice offered to some, but not all, unions that the 1984 Act would place new restrictions on activities which unions could finance from their general funds. There was therefore a strong case for making clear to the unions, in an authoritative way, that the law had only been restated. To that end, it was suggested that the Government, in company with the Civil Service trade unions, should seek a declaration from the Courts that the trade unions could still finance from their general funds the sort of activities which they were able to finance under the 1913 Act. It was pointed out that the declaration would need to specify the exact circumstances for each use of union funds.
- (ii) Any refusal by the union to co-operate with the Government in this way would cast serious doubt on the good faith of their arguments that they needed a political fund simply to maintain their traditional campaigning activities and not for new party political purposes. If the unions refused to join the Government in seeking such a declaration from the Courts, the Government should, if this were legally possible, seek one by itself.

- (iii) The use of Government money to finance the unions' costs in such legal procedures was considered to be a justifiable charge on public funds.
- (iv) Two months ago the Inland Revenue Staff Federation had asked for facilities to show on civil service premises a video film in support of that union's case for a political fund which was to go to a ballot next month. It was undesirable to accept such a request since this would imply that the unions did have reasonable grounds for the establishment of political funds.

Summing up the discussion, the Prime Minister said that the Head of the Civil Service should now proceed quickly to ask the Civil Service trade unions, through the National Whitley Council machinery, whether they would join the Government in seeking a declaration from the Courts about the consequences of the Trade Union Act 1984 on Civil Service unions' powers to campaign in defence of their members' interests. The Government should offer to meet trade unions' costs in this action. If the unions refused to join with the Government, the Government should, if this were legally possible, be ready to proceed alone to seek a declaration. While it should be made clear to the unions that the Government's purpose was to obtain an authoritative clarification of the law, the unions should be asked to delay balloting their members on political funds until the Courts had decided the matter. The unions should be told that the Government would be prepared to consider legislation to restore the position to that existing prior to the Trade Union Act 1984 in the unlikely event of the Courts declaring that that Act had altered the definition contained in the Trade Union Act 1913 of the political objects for which a political fund is required so that the unions were no longer able to finance from their general funds the activities which they claimed traditionally they had carried out in defence of their members interests. The Head of the Civil Service should, if necessary, take steps to inform civil servants of this course of action through Civil Service managers in the normal way. There could also be a low-key Parliamentary Question if the Ministers concerned thought this necessary. The Minister of State, Treasury, should inform the Inland Revenue Staff Federation early next week, but only after the Head of the Civil Service had contacted Civil Service unions, of what was proposed, and asked them to defer their request for facilities to show their video.

I am copying this letter to Andrew Lansley (Chancellor of the Duchy of Lancaster's Office), Leigh Lewis (Department of Employment), Jacob Franklin (Paymaster General's Office), Murdo Maclean (Chief Whip's Office), Henry Steel (Law

Officers' Department), Paul Thomas (Office of the Minister of State, Privy Council Office) and Michael Stark (Cabinet Office).



N. L. Wicks

Mike Norgrove, Esq.,  
Minister of State's Office,  
HM Treasury.



10 DOWNING STREET

From the Principal Private Secretary

10 January 1986

*Dear Mike,***THE CIVIL SERVICE UNIONS AND POLITICAL FUNDS**

The advice in the Solicitor General's minute of today's date to the Prime Minister makes it inadvisable to adopt the course of asking the Courts for a declaratory judgement which was agreed at the Prime Minister's meeting yesterday.

*BK*  
I should therefore be grateful if your Minister, in consultation with the other departments concerned could urgently consider how these matters could now be carried forward in the spirit of the conclusions of yesterday's meeting.

I am sending a copy of this letter to Andrew Lansley (Chancellor of the Duchy of Lancaster's Office), Leigh Lewis (Department of Employment), Jacob Franklin (Paymaster General's Office), Murdo Maclean (Chief Whip's Office), Henry Steel (Law Officers' Department), Paul Thomas (Office of the Minister of State, Privy Council Office) and Michael Stark (Cabinet Office).

*Nigel Wicks*

N L WICKS

Mike Norgrove, Esq.,  
Minister of State's Office,  
H M Treasury

cc Mr Waring



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This completely wrecks the conclusions of yesterday's discussion. I will ask Ministers for further advice. N.C.W. 10.1

PRIME MINISTER

CIVIL SERVICE UNIONS: POLITICAL FUNDS

1. I was regrettably too sanguine yesterday evening in my immediate response to Norman Tebbit's suggestion that it should be put to the unions that a joint application be made by the Government and themselves to the Court for a declaration as to whether a political fund is required for the purposes they say they have in mind. I am afraid that research this morning shows that the chances of the Court entertaining such an application are so slender that the proposition is not able to be credibly put to the unions. I have already arranged for colleagues to be notified of this by telephone.

2. A Court will entertain an application for a declaratory judgment only if there is an issue, in the legal sense, between two or more parties. The Court will not entertain an application where the rights of the parties are not in issue in a dispute between them, or where a specific claim is not being made by one of the parties against another. In other words, a purely advisory declaration in the absence of a legal issue will be refused and our present proposal falls within this category.

3. I am sorry that in the event it has proved impossible to use the judicial process at our own instance as a means of smoking out of the unions the admission, by inference, that they only want political funds for politically partisan purposes.



4. However, in the light of a proposal to establish a political fund for the purpose of financing activities allegedly (but wrongly) said to require a political fund for their financing, a member of the union could seek a declaration that for such purposes a political fund was unnecessary. He would have sufficient interest - "locus" - by reason of the fact his union's funds were going to be spent on a ballot that was unnecessary. This may offer an alternative route.
  
5. Once a political fund has been set up it may, dependent upon the circumstances, be open to a member of the union to obtain a declaration from the Court that specific expenditure from the fund is, or would be, ultra vires. The Certification Officer may also have jurisdiction.
  
6. I am copying this minute to Lord Young, Kenneth Clarke, Barney Hayhoe, Peter Brooke, Norman Tebbit and Sir Robert Armstrong.

A.S. Hyett.

Approved by the Solicitor General  
and signed in his absence.

10 January 1986