

File

Misc 101 - disms.

Possible Memo to Ash

(2)

PRIME MINISTER

AT 22/10

mt

22 October 1984

mt

John suggested I sent you further details on the legal position of the case of the National Coal Board (NCB) against National Union of Mineworkers (Yorkshire Area).

In my opinion, the NCB still has a case against the Yorkshire Area NUM. I set out the details below if you wish to ask the Government lawyers for their view of this line of argument.

Neither Attorney General nor Solicitor General are available for Misc 101 tomorrow

14 March 1984

Interim hearing before Mr Justice Nolan in the Queen's Bench Division for injunctions Order as sought:

The Yorkshire Area of the NUM do forthwith withdraw any instruction, authority or statement made by them which is calculated to provoke, encourage, assist in the organisation of, or otherwise facilitate, unlawful picketing by their members at the Plaintiff's premises.

Further, the Defendant be restrained by themselves, their servants or agents from

organising, procuring, financing or encouraging,
or otherwise facilitating, unlawful picketing by
their members at the Plaintiff's premises until
trial or further order.

19 March 1984

At a hearing before Mr Justice Caulfield the matter was
adjourned generally at the request of the Plaintiff (NCB)
because the Board then hoped the proceedings were
unnecessary because at that stage they felt a ballot was
likely.

Present Position

The case has gone no further; no Statement of Claim or
other pleadings have been filed. The Board's position is
that the proceedings are now stale, probably too stale to
revive. They have, however, considered the evidential
position and now appear to be satisfied that a breach of the
above Order could be established.

The Current Evidence

- (a) As revealed in the 'Times', 20 October 1984, the
NUM has co-ordinated the strike (Document 1
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attached). Although this relates to the NUM
rather than the Yorkshire area it is further
supporting evidence to the case that the NCB had
in March.

- (b) Transcripts of the TUC Annual Conference contain statements which, in the view of the NCB, amount to admissions of breaches of this Order (Ref NCB Legal Department).
- (c) Various reported statements of Arthur Scargill are express admissions of infringements of this Order (Ref NCB Legal Department).

Other Relevant Cases

*You have
already seen
this.*

- (1) Taylor & Foulstone v NUM (Yorkshire) and NUM.
- (2) Taylor & Others v NUM (Derby). (Documents 2 and 3 attached.)

In these Chancery cases brought by working miners for declarations that the strike infringes NUM rulebook and is unlawful, the whole history of the dispute is well set out (see eg Document 2, pages 9-16). In Taylor v NUM the Union was declared to be in contravention of its rules and permanent injunctions were given to that effect (see Document 3, pages 19-21). In the former case only interim injunctions were granted pending a full hearing.

Conclusion

The injunction of 14 March 1984 could, on present evidence and on present judicial attitudes, be extended if the NCB chose to pursue the matter further. On what I am told by the NCB I do not believe that it will be necessary to join or substitute the NUM as defendant in addition to the Yorkshire area, but this cannot be ruled out.

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