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6cc: Mr. Verelker.

10 DOWNING STREET

From the Private Secretary

15 February 1983

Dear David,

The Water Workers' Dispute

The Prime Minister held a further meeting at 0830 this morning to discuss the water workers' dispute. Those present were the Home Secretary, the Secretaries of State for Defence, Scotland, Wales, Employment and the Environment, the Chief Secretary, Treasury, the Attorney General, Mr. Giles Shaw and Messrs. Harrop, Gregson, Goodall and Ingham.

Ministers first considered the effects of the strike on water supplies. Your Secretary of State reported that 60,000 properties were now without piped water supplies and 7.7 million people were being advised to boil water as a precautionary measure. The Secretary of State for Wales said that 21,000 properties in Wales were now without piped water, mainly because of the failure of one pumping station. It was also reported that the trades unions representing craftsmen in the water industry had announced that they would not be prepared to cross picket lines from Sunday, 20 February, although the immediate impact of this might not be very serious; and that workers in the chemical industry had threatened to support the water workers by preventing the replenishment of stocks of chlorine at water purification stations.

The discussion then turned to the current state of the negotiations. Your Secretary of State referred to the statement issued by the Advisory, Conciliation and Arbitration Service (ACAS) very early this morning, a copy of which is annexed to this letter. The employers, who had consulted him about the ACAS formula, had argued that the trades unions should accept in advance that the outcome of the proposed Committee of Inquiry should be binding, in accordance with the industry's national agreement. The GMBU had apparently been prepared to accept this ACAS formula, but the other two trades unions involved in the dispute - the TGWU and NUPE - had at first not. Agreement

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had finally been reached between the parties on the establishment of a Committee of Inquiry on the understanding that Mr. Pat Lowry, the Chairman of ACAS, would chair a final, full and special meeting of the National Joint Industrial Council at which an agreement would be drawn up; and that this meeting would be concerned only with resolving any technical issues that might arise on the Committee of Inquiry's recommendations. Mr. Lowry would be writing that day to the Chairman of the employers' negotiating team, Mr. Hill, to confirm these understandings. The employers had considered at one stage pulling out of the negotiations, but had concluded that this would be regarded by the general public as unreasonable in the light of the assurances offered by the trades unions. It was imperative that the Government and the employers should insist publicly at every opportunity that the ACAS formula involved a binding commitment by the trades unions to accept the outcome of the Committee of Inquiry, thus obliging the trades unions, if their intentions ran otherwise, to deny publicly that this was the case. There had been some speculation in the media that a serving High Court Judge would be invited to chair the Committee of Inquiry. But there had, it seemed, been no formal discussion between the parties or with ACAS about possible nominations to the Inquiry. There had also been no formal discussion of the terms of reference for the Inquiry.

The following were the main points made in discussion:-

- a. It would be a grave mistake to appoint an active High Court Judge to the chairmanship of an Inquiry of this nature, particularly if the other members of the Inquiry were not also to be members of the judiciary. A retired Judge would be a possibility. The employers had some possible candidates in mind. There would be tactical advantage in suggesting possible names at the earliest opportunity, since the onus for rejecting them would then fall on the trades unions and not on the employers.
- b. It would be desirable for the letter of clarification which Mr. Pat Lowry proposed to be sent to both parties and to be widely publicised.
- c. The Government would have only a limited influence at best on the terms of reference of the Committee of Inquiry. It was essential that these should be as narrow as possible, should specify that an award was to be made, and should refer to the report of the mediator. If, on the other hand, the employers were obliged to agree to wider terms of reference, these should go very wide, enquiring into the justification of the closed shop and the unions' failure to honour their agreements.

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- d. It was essential that the employers should present their case in the strongest possible light to the Inquiry. The Government would therefore need to offer the employers every possible assistance with the preparation of their evidence.
- e. The Water Act 1945 did not specify circumstances in which the water authorities could be relieved of their statutory obligation under the civil law to provide water supplies. It was not clear that a strike would be regarded by the courts as a sufficient excuse for the water authorities not fulfilling their obligations, and therefore whether the use of contractors by third parties would be legal. It might be regarded as acceptable if supplies to a large number of people or to a particularly vulnerable section of the community were involved. It was not a criminal offence to reconnect water supplies. The permission of the highway authority would generally have to be sought if the highway had to be dug up. But it was questionable on policy grounds whether it would be right to encourage the public to engage contractors to do work of this nature.

The Prime Minister, summing up the discussion, said that the decision to appoint a Committee of Inquiry was regrettable as was the fact that the trades unions had not been prepared unequivocally to accept in advance that its outcome would be binding on them; the ACAS formula was far from watertight on this point. It would be unacceptable for an inquiry of this nature to be chaired by a practising High Court Judge. The Secretary of State for the Environment, in consultation with the Secretary of State for Employment, should therefore consider possible candidates and should encourage the employers to suggest nominations at the earliest opportunity. The Secretary of State for the Environment, in consultation with the Secretary of State for Employment and the Chief Secretary, Treasury, should also consider urgently what the terms of reference for the Inquiry might best be. Wide ranging terms of reference would be very undesirable. They should, rather, specifically invite the Committee of Inquiry to make an award and should refer also to the mediator's recommendations. They should also be designed to ensure that the work of the Inquiry could be completed within a few days. The Government should make every effort to ensure that the employers' evidence to the Inquiry was as powerful as possible. The Secretary of State for the Environment should discuss this with them at the earliest opportunity. The employers should also be urged to revert to their offer based on the mediator's recommendations in their evidence to the Committee; or to earlier, and lower, offers. They should also press the trades

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unions to agree, as an earnest of their good faith in accepting the Committee's conclusions in advance, to end the strike immediately in the light of the establishment of the Committee of Inquiry. The Government's and the employers' publicity efforts for that day should concentrate on stressing that the ACAS formula was to be read as binding the trades unions to accept the outcome of the Committee of Inquiry. It was essential that this should become generally accepted and that the onus should be placed firmly on the trades unions publicly to deny that this was the case. The group would meet again on Wednesday 16 February at 0830 to review the situation.

I am sending a copy of this letter to the Private Secretaries to those Ministers who were present at this morning's meeting, to John Lyon (Northern Ireland Office), to Messrs, Harrop, Gregson, Goodall and Ingham and to Richard Hatfield (Cabinet Office). I should be grateful if they would arrange that it is given only the minimum necessary circulation.

*Yours sincerely,*

*Michael Scholar*

David Edmonds Esq  
Department of the Environment.

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DRAFT LETTER FOR MR SCHOLAR TO SEND TO MR D EDMONDS, DEPARTMENT OF THE ENVIRONMENT

THE WATER WORKERS' DISPUTE

The Prime Minister held a further meeting at 08.30 this morning to discuss the water workers' dispute. Those present were the Home Secretary, the Secretaries of State for Defence, Scotland, Wales, Employment and the Environment, the Chief Secretary, Treasury, the Attorney General, Mr Giles Shaw and Messrs. Harrop, Gregson, Goodall and Ingham.

2. Ministers first considered the effects of the strike on water supplies. Your Secretary of State reported that 60,000 properties were now without piped water supplies and 7.7 million people were being advised to boil ~~that~~ water as a precautionary measure. The Secretary of State for Wales said that 21,000 properties <sup>in Wales</sup> were now without piped water, mainly because of the failure of a <sup>one</sup> ~~particular~~ pumping station. It was also reported that the trades unions representing craftsmen in the water industry had announced that they would not be prepared to cross picket lines from Sunday, 20 February, although the immediate impact of this might not be very serious; and that workers in the chemical industry had threatened to support the water workers by preventing the replenishment of stocks of chlorine at water purification stations.

3. The discussion then turned to the <sup>current</sup> state of ~~play~~ in the negotiations. Your Secretary of State referred to the statement issued by the Advisory, Conciliation and Arbitration Service (ACAS) very early this morning, a copy of which is annexed to this letter. <sup>(A)</sup> The GMBU had apparently been ~~this - the attached~~ prepared to accept ~~this~~ formula, but the other two trades unions involved



in the dispute - the TGWU and the NUPE - had not. <sup>after</sup> This was apparently because they saw some advantage to be gained in allowing the strike to continue for some time in terms of the continuing competition between the GMBU and the NUPE to attract new members.

(A) The employers, who had consulted him ~~very early that morning~~ about the ACAS formula, had insisted that the trades unions should accept in advance that the outcome of the proposed Committee of Inquiry should be binding, in accordance with the industry's national agreement. Agreement had finally been

reached between the parties on the establishment of a Committee of Inquiry on the understanding that Mr Pat Lowry, the Chairman of ACAS, would chair the final, full and special meeting of the National Joint Industrial Council at which an agreement would be drawn up; and that this meeting would be concerned only with resolving any technical issues that might arise on the Committee of Inquiry's recommendations. Mr Lowry would be writing that day to the Chairman of the employers' negotiating team, Mr Hill, to confirm these understandings. The employers had considered at one stage pulling out of the negotiations, but had concluded that this would be regarded by the general public as unreasonable in the light of the assurances offered by the trades unions. It was, ~~therefore~~, imperative that the Government and the employers should insist publicly at every opportunity that the ACAS formula involved a binding commitment by the trades unions to accept the outcome of the Committee of Inquiry, thus <sup>obliging</sup> ~~putting the onus on~~ the trades unions <sup>if that was their intentions (or otherwise)</sup> to deny publicly that this was the case. There had been some speculation in the media that a serving High Court Judge would be invited to chair the Committee of Inquiry. But ~~his understanding was that~~ <sup>it seemed</sup> there had been no formal discussions between the parties or with ACAS about possible nominations to the Inquiry. He did not think that ~~a serving Judge would be suitable for an inquiry~~ <sup>that</sup>



of this nature, and neither did the employers or ACAS; he therefore intended to encourage them to remain firm on this point. There had also been no formal discussion of the terms of reference for the Inquiry, although it was likely that past practice would be followed and that these would be couched in very general terms.

The following were the main points made in discussion:-

- a. Experience suggested that <sup>I</sup> it would be a grave mistake to appoint an active High Court Judge to the Chairmanship of an inquiry of this nature, particularly if the other members of the Inquiry were not also to be members of the judiciary. A retired Judge would be a possibility, although still far from satisfactory. The employers had some possible candidates in mind. <sup>There</sup> It would be tactically advantageous <sup>in</sup> if they were to suggest <sup>ing</sup> possibilities <sup>le names</sup> at the earliest opportunity, since the onus for rejecting <sup>them</sup> names would then fall on the trades unions and not on <sup>the employers</sup> them.
- b. <sup>would be desirable for</sup> It was essential that the letter <sup>of clarification</sup> which Mr Pat Lowry proposed <sup>to</sup> to write to clarify the ACAS formula <sup>to</sup> should be sent to both parties and <sup>to</sup> should be widely publicised.
- c. The Government would have only a limited influence at best on the terms of reference of the Committee of Inquiry. It was essential that these <sup>should be as specific narrow as possible, and</sup> should specify that an award was to be made <sup>should refer</sup> and that they should make explicit reference to the report of the mediator. <sup>agree</sup> If, on the other hand, the employers were obliged to <sup>forced</sup> to enter terms of reference, these should <sup>very</sup> go <sup>as wide as</sup> as enquiries into the justification of the closed shop <sup>and</sup> the unions' failure to honour their agreements.



d. It was essential that the employers should present their case in the strongest possible light to the Inquiry. The Government would therefore need to offer the employers every possible assistance with the preparation of their evidence.

e. The Water Act 1945 did not specify circumstances in which the water authorities could be relieved of their statutory obligation to provide water supplies. It was not clear <sup>that</sup> ~~that under common law~~ a strike would be regarded by the Courts as a sufficient excuse for the water authorities not fulfilling their obligations, and therefore whether the use of contractors by third parties would be legal. It might be regarded as acceptable if supplies to a large number of people or to a particularly vulnerable section of the community were involved. It was ~~certainly~~ not a criminal offence to reconnect water supplies. But it was questionable on policy grounds whether it would be right to encourage the public to engage contractors to do ~~some~~ work of this nature.

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However, the permission of the highway authority <sup>generally</sup> would have to be sought if the highway had to be dug up.

The Prime Minister, summing up the discussion, said that the decision to appoint a Committee of Inquiry was regrettable as was the fact that the trades unions had not been prepared unequivocally to accept in advance that its outcome would be binding on them; the ACAS formula was far from water tight on this point. It would be unacceptable for an inquiry of this nature to be chaired by an active High Court Judge. The Secretary of State for the Environment, in consultation with the Secretary of State for Employment, should therefore consider ~~other~~ possible candidates and should encourage the employers to suggest nominations at the earliest opportunity. The Secretary of State for the Environment, in consultation



## THE 1982/83 WATER STRIKE

### Reference Documents

#### CHRONOLOGY

1. Extract from 8 December 1981 NJIC Collateral Agreement.
2. Fact Sheets: pay, numbers, rates.
3. Extract from the NJIC Closed Shop Agreement: health and public safety.
4. Extract of the NJIC Handbook on Wages & Conditions: Arbitration.
5. Extracts from Hansard: Mr King's Statements, and the PM in Question Time.
6. ACAS 21-23 January Procedural Agreement.
7. Buchanan's recommendations as mediator, 23 January.
8. Details of the NWC's offer following the 6 February discussions.
9. Estimate of average earnings effect of the 6 February offer.
10. ACAS 9 February Statement.
11. ACAS 15 February Statement on the Committee of Inquiry.