

CONFIDENTIAL



10 DOWNING STREET

From the Principal Private Secretary

RICHARD HATFIELD

The attached was handed to me by Michael Alison, the Prime Minister's Parliamentary Private Secretary, during the Prime Minister's tour of the North. I do not know who gave it to Michael.

I am not sure how interesting the letter is, or indeed whether it is genuine. But you might like to bring it to the attention of anyone in Government whom you think might be interested in it.

I ask you to do this since I do not want it to be known that it was handed to the Prime Minister's party during her tour. No doubt you will let me know if it discloses anything of particular interest.

12 September 1985

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23rd August, 1985

Dear Mr Scargill,

Thank you for sending me a copy of the letter from Mr Bell of COSA to yourself dated 22nd July 1985. I apologise for the delay in replying which was caused by holidays. I also wanted to have an opportunity of consulting with John Hendy of Counsel before replying in detail. I would comment on the three points raised by Mr Bell as follows:

1. Strike Action

Rule 26 of the new National Rules governs all industrial action. One of the purposes of the drafting was to accommodate the provisions of the 1984 Trade Union Act. Hence Rule 26B protects the National Union from legal liability in respect of industrial action which has not been specifically approved by the NEC and which was not protected by statute. Rule 26A preserves (from the old Rule Book) the power of Areas to call strikes providing they report them to the NEC and obtain sanction. Rule 26E preserves the requirement to hold a national ballot where a national strike is proposed. Rule 26C gives the NEC itself power to call industrial actions in Areas or sections of Areas. There is, in our view and that of Counsel, an implied term in relation to strike action that the members of a Constituent Association cannot be ordered by the NEC under Rule 26(C) to take strike action in contravention of the Rules or policy of the Constituent Association. There is, of course, another factor - namely the 1984 Trade Union Act which makes it unlawful to sanction strike action without a prior ballot of the members.

Thus the Rules relating to industrial action are perfectly lawful, but any action which is in breach of the Rule (including the implied Rule) or in breach of the statute would be unlawful.

2. Membership of COSA

Rule 17 makes clear the distinction between Areas and Constituent Associations. All Areas at present either are Constituent Associations or are comprised of groupings of Constituent Associations. The autonomy of Constituent Associations is reflected in Rule 17D which does not give power to Conference or the NEC to restructure Constituent Associations though Rule 17C restates the old Rule requiring Constituent Associations who wish to restructure themselves to obtain approval of Conference.

P.T.O.

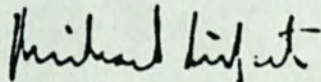
As a Constituent Association COSA's right to retain its members is unaffected by the changes in Rules. As an Area COSA has already been "allocated" its members and stands in the same position as any other Area.

3. Area Consultation

There is no restriction of any requirement in Area Rules for Areas to consult their membership by way of ballot on wages or industrial action. The Rules do however require that the democratic processes are adhered to in relation to Branches, Area Executives and Area Councils on every issue. Nevertheless the 1984 Trade Union Act requires a ballot prior to strike action called by an Area, and, as before, strike action called without a ballot would be unlawful and render the Area liable.

I would be happy to advise further if required.

Yours sincerely,



MICHAEL SEIFERT
SEIFERT SEDLEY WILLIAMS