

BRIEF FOR THE SECRETARY OF THE DEPARTMENT OF COMMERCE ON THE
PCC MEMORANDUM ON PUBLIC DEBT (PCC 75/33)

The Rent Strike was the only organised withholding for civil disobedience purposes of monies due to a public authority in Northern Ireland. The difficulties encountered in attempting to overcome it by normal collection procedures had two major consequences. The first, from Government, was the introduction of legislation providing powers for extraordinary methods of collection and the second from sections of the community, was the extension of the practice of wilful withholding of monies due to public authorities into other areas, notably rates, gas and electricity.

The legislation, The Payments for Debt (Emergency Provisions) Act 1971 has had mixed success. Section 1 has been used very successfully to deal with rent strikers in receipt of social security payments. The setting up of the Benefit Allocation Branch (BAB) to identify strikers in receipt of benefit and to deduct at source payments owed to the Housing Executive has resulted in the recovery of a large proportion of the rent debt and a striking reduction in the number of rent debtors. Concern was expressed by officials in the Public Debt Policy (PDP) Committee that the impending transfer of NI social security records to the computer at Newcastle-on-Tyne would prevent the continuing use of the BAB procedure and its possible application to other types of debt but these fears have now been removed by the assurance from DHSS that the Newcastle computer can provide the necessary facility.

As the rent debt problem was brought under control, the success of the BAB procedure naturally led to consideration of its use for dealing with other public debt which had been growing unchecked. Section 1 of the legislation also provided powers for the attachment of earnings of debtors and Section 3 for a more speedy legal process than hitherto involving the Enforcement of Judgements Office (EJO) but for a variety of reasons these powers have been largely ineffective. They were, however, the only routes for recovery of debts open to other creditor bodies faced with the problem of wilful withholding. The extension of the BAB machinery to these other creditor bodies was thought to be unacceptable because of the undertaking given by Mr Faulkner that the legislation would be used only to recover civil disobedience debt. The withholding of gas and electricity monies had never been publicly declared to be a civil disobedience measure.

The Department of Commerce has argued strongly in PDP Committee that the distinction between civil disobedience and any other motive as a reason for wilful withholding could not be sustained from the date when Mr Currie officially called for the end of the campaign during the days of the NI Assembly and that anyway one could not get into the minds of debtors to determine their motivation no matter what the nature of the debt or the creditor body.

This view is now widely accepted and has been endorsed by the SOS. Only the availability of the BAB machinery, the impediment caused by Mr Faulkner's declaration, the production of lists of fuel debtors to DHSS, the problems of multiple allocation and the need perhaps for ministerial blessing now stand in the way of getting fuel debts on to the BAB collection process. With the reduction in the size of the rent debt problem the machinery is available. Mr Faulkner's assurance is likely to ^{be} ^{set} ^{aside} if only on the grounds that it is now ultra vires, sample lists of gas and electricity debtors are in course of preparation for BAB consideration, especially to discover the probable extent of the multiple debt problem, and PCC consideration is seen as a prelude to a later recommendation to the SOS on fuel debt recovery. ^{para} The background to collection charges will be well known to you. Perhaps the main reason for their imposition was to offset the cost of BAB but it was hoped that the ~~positive~~ ^{punitive} effect on debtors would encourage them to enter agreements with the creditor bodies to make planned regular repayments of debt together with current rent payments so that they could be removed from the BAB process.

In early 1974 the SDLP applied pressure to Ministers to have the collection charges abolished before the civil disobedience rent strike could be officially brought to an end. Unfortunately BAB costs have risen, some rent debtors who entered voluntary agreements have failed to honour them (and cannot be put back on to BAB because they cannot now be assumed to have a civil disobedience motive), the rent debt problem is increasing again and PDP Committee is recommending that collection charges be reimposed. It is also recognised that both debtors and creditor bodies alike might find the BAB process too convenient unless they have to pay for the service.

Since the rent strike started, it has spread from the Catholic to the Protestant areas and to rates, gas and electricity. Fuel undertakings, particularly the NIES and Belfast Gas, have been unable to apply the normal sanction of disconnection because of intimidation of workmen and destruction of vehicles sent out. Where disconnections were accomplished at the start of the campaign,

illegal reconnections by-passing the meter have often been made and NIES in particular would prefer not to disconnect if only to ensure that consumption, even if it is not being paid for, continues to be properly recorded on the debtor's meter against the day when the measured debt can be recovered.

The complexity of the debt problem for creditor bodies is immense. Squatting, illegal sub-letting, moonlight flitting, illegal reconnections, smashed meters all combine to make it impossible to establish the true size of the debt and to attribute it accurately to individuals. Both Belfast Gas and NIES have special problems with their consumer records. Belfast Gas still have many of their records on manuscript entry cards and NIES have records divided according to the original bodies from which they were formed. NIES expect to have all their records on the Danesfort Computer by some date in 1976 and Belfast Gas are also working to computerise all their records. In the meantime it is extremely difficult to get debtor information from these bodies in a form permitting easy and frequent assessment of the problem, although both do their best to comply with the Department's requests for information. Returns take many weeks to compile and are in a format unsuitable for analysis and comparison.

Given all these difficulties, the Department is still insisting that debt returns be prepared for PDP Committee information. The latest fuel debt position known to the Department is shown as an appendix to this brief and has been prepared by the two Branches concerned. We are concerned that if positive effective action to identify the size of each individual defaulter's indebtedness and to effect recovery is not taken now, the number of debtors and the size of the average debt will both increase as fuel prices rise, so that the problem will become much more difficult to deal with. There is a real danger that non-payment will become a way of life to those outside the reach of the BAB machine and in an effort to prevent this happening the gas and electricity undertakings are working to introduce a variety of easy payment schemes.

The Department is represented on a recently formed EJO Committee which is examining the reasons why the EJO procedures have contributed so little to the solution of the debt problem. Progress to improved EJO procedures is likely to be slow but the Committee is examining this Department's suggestion that there should be a central register of all public debtors to which public bodies at least should be able to refer so as to ensure that debtors in one arena are prevented from incurring new liabilities which they would be unlikely to honour.

This Department has also put forward a suggestion in PDP Committee that any monies recovered from debtors by the BAB machine should be shared between creditor bodies. This would deal with the criticism that the Housing Executive are getting preferential access to the machine and would also solve the problem of multiple allocation. The suggestion has not been well received, particularly by the DHLG&P.

The move to attach supplementary benefits payable to rent strikers is relevant to this suggestion. Supplementary benefits do contain an element for rent but they also contain an element for heating costs and I see no reason in principle why the Commission should not have been paying money direct to fuel undertakings and no reason why they should not now use the BAB machine for deductions in respect of fuel debts. Clearly the rent strike having been sponsored by public representatives and having caused the earliest Government concern is still the focus of attention and the first candidate for the use of the only effective recovery technique.

Perhaps fuel debts came under notice later in time than the rent and rates debts but they have now assumed large proportions and we shall continue to press the undertakings for regular information and the PDP Committee for access to the BAB machine.

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