



House of Lords

Personal and Private.

16 September, 1977

Not Sent

My dear Keith:

I hope you will forgive an old friend and colleague writing you rather a severe letter about your recent utterance on Grunwick. It is a fundamental rule of public life that when a controversial matter impinges on several fields, colleagues should be consulted. I was not consulted about your recent speech.

Had I been consulted I would have made the following comments before you delivered your speech. In the first place, you thought it right to be distinctly uncivil to one of the most distinguished judges in our judiciary, who has just been appointed a Lord of Appeal in Ordinary and a member of the House of Lords. I do not think you should have done this at all. I had always associated discourtesy to the judiciary with Michael Foot and with Socialist speakers. It seems to me to be quite unworthy of a Conservative. If you had known Lord Scarman better you would have known that he was quite incapable of slipshod work or naïveté, which is what you charged him with, *and even if he had been guilty of it a more respectful method of address would have been appropriate.*

I would also have pointed out to you that you have completely misunderstood the nature of a Court of Inquiry under the Industrial Courts Act 1919. It is true, of course, that every lawyer's motto, including Lord Scarman's, is, "the spirit killeth, the letter giveth life." But, Lord Scarman was not appointed to administer the law. An industrial court is set up in order to make proposals *ex aequo et bono* and not legal proposals. Of course, it is necessary to discuss the reasonableness of behaviour as well as its legality *in order to achieve this.*

Your point of view was, as usual, brilliantly expressed and represents a very widely held conclusion about the wisdom of the Scarman Report, and the reaction to it by the Trade Union Congress, and by David Steel, shows how very hysterical and oppressive such people can be. All the same, I think it would have been much better had you moderated your own language about Lord Scarman and criticised the Report in less forthright terms. And you certainly should not have done so without

consulting/...



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consulting colleagues. As I understand it, you did not consult James Prior, nor did you consult me.

I hope you will excuse this plain speaking from an old friend.

I am sending a copy of this letter to Margaret.

As it is, I am stymied in criticising Socialists for madness to the judges, and Jim watches bemused as the Trade Union stags he has been stalking for so long gallop wildly away over the skyline, while the party, completely befuddled about the constitutional position barks and growls menacingly at his heels instead of attacking the TUC and their Labour friends

Ys

The Rt. Hon. Sir Keith Joseph, Bt, MP,
House of Commons.

P.S. Another trouble is that it is increasingly difficult to get judges to perform these distasteful tasks. If the only thanks they get is to be abused by one side or the other, it will become impossible