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From: Rt Hon Leon Brittan, QC, MP.

6th June, 1984.

Dear Colleague,

COAL MINING DISPUTE: PICKETING AND POLICING

The policing necessary as a result of the present coal mining dispute has been very successful. In spite of a concerted attempt to close down a whole coalfield by often violent mass picketing, those who want to go to work have been able to do so. No picketing of secondary sites has been successful either. For this, the police clearly deserve our gratitude and support.

I know that you will want to do all you can to help us ensure that the truth about the police operations to prevent and, where necessary, to respond to disorder is fully understood. I hope that the attached factual notes may prove useful to you in dealing with queries and criticism about these matters from whatever source.

Y,

LEON BRITTAN

A. Pickets

1. The Scale of the Picketing

During the dispute the level of picketing at particular sites has varied considerably from day to day. But it has been common to have a total of two to three thousand pickets spread across the country at various National Coal Board and other premises. On particular days several thousand pickets have been present at individual sites. For example, on 29 May as many as 6,000 pickets were present at the Orgreave coking plant in Rotherham as lorries carrying coke to the Scunthorpe steelworks left the plant.

2. Violence and Intimidation

Numerous instances of violence and intimidation have been reported to the police. On the picket lines verbal abuse, stones, bottles and other missiles have been thrown at working miners. The cars of working miners have been damaged entering collieries, and in some areas arrangements have had to be set in hand for workers to be in by coach, and even then coaches have been damaged, with windows being smashed.

Since it became clear that the picketing was not stopping people going to work, intimidation away from the picket line has increased. In villages close to working collieries, miners' houses and cars have been daubed with paint. Cars have been damaged and house windows smashed. Many instances of threatening telephone calls and letters have been reported to the police. Miners on their way to work have been assaulted.

The police have responded to these developments vigorously. They are doing everything they can to deal with such behaviour. People are being encouraged to report all incidents to the police who are investigating such reports and bringing charges in appropriate cases. In many areas, teams of CID officers are investigating such allegations. Extra uniformed officers are patrolling villages where intimidation might occur. These measures have proved welcome and helpful, although this has inevitably not brought intimidation to an end.

3. The Numbers of Arrests

Between the 14 March and 29 May there were a total of 2,689 arrests made in England and Wales in connection with the current dispute. The following tables give information on the numbers arrested by force area, and by the offences charged:-

<u>Police Force Area</u>	<u>Number of arrests made</u>
Cleveland	5
Derbyshire	235
Durham	138
Essex	207
Greater Manchester	22
Hampshire	7
Humberside	9
Kent	48
Lancashire	25
Leicestershire	29
Merseyside	41
Northumbria	40
North Wales	21
Nottinghamshire	1226
South Wales	60
South Yorkshire	292
Staffordshire	195
Warwickshire	83
West Yorkshire	6
	<u>2689</u>

4. Charges

<u>Offence</u>	<u>Number of charges brought</u>
Section 5 of the Public Order Act 1936 (behaviour likely to cause a breach of the peace)	1208
Obstruction of a police officer	806
Obstruction of the highway	348
Criminal damage	109
Assault on a police officer	176
Assault occasioning actual bodily harm	82
Grievous bodily harm	6
Riot	57
Theft	57
Resisting arrest	8
Offensive weapons	9
Conspiracy and Protection of Property Act	7
Burglary	1
Handling stolen property	1
Drug offence	1
Breach of bail conditions	4
Attempted criminal damage	3
Drunkenness	31
Other offences	36
	<u>2950</u>

[NB: The excess of charges over the number arrested is accounted for by multiple charges.]

5. Court Cases

Between 14 March and 29 May inclusive, 389 cases had been dealt with by the courts. Twenty-two of the defendants had been acquitted. In 295 cases the courts imposed fines (mainly between £10 and £200) and in 158 cases the people involved were bound over to keep the peace.

B. The Police

1. The size of the Police Operation

The number of police officers involved in policing the events surrounding the current miners' dispute has varied considerably from day to day. On occasion, as many as 7,000 police officers from other police forces have been engaged on mutual aid to those forces involved in policing duties connected with the dispute. The following forces had received mutual aid between 14 March and 4 June:

Derbyshire	Warwickshire	Humberside
Leicestershire	Staffordshire	South Wales
North Wales	Cumbria	Suffolk
Nottinghamshire	South Yorkshire	Essex
		Dyfed Powys.

In addition, large number of police officers have been deployed locally. The Ministry of Defence and others have provided accommodation for officers deployed on mutual aid. NB This has been the limit of the involvement of the services in the policing of the miners' dispute.

2. The Role of the National Reporting Centre

Section 14(1) of the Police Act 1964 allows a chief officer of police to provide officers or other assistance to another chief officer at the latter's request. In normal circumstances the provision of assistance would be arranged by chief officers on a local basis. However, in the 1970's it became apparent that in some circumstances it was advantageous to have some form of central co-ordination of requests for and the provision of mutual aid, and this is the purpose of the NRC. The Centre receives requests for assistance from the various forces having to police the dispute and asks other forces to provide this assistance. NB The individual chief officers of police retain full operational responsibility within their own area. The NRC does not instruct or require forces to request or provide assistance.

3. The Common Law Powers of the Police

There has been some controversy about the use of police powers during the dispute. In a written reply on 16 March 1984 the Attorney General set out the criminal law relevant to picketing. For ease of reference a copy of the Official Report is attached (Annex).

4. Complaints Against the Police

Those who have complaints to make about police behaviour know full well that they can seek redress. A well established procedure exists for dealing with complaints against the police provided by section 49 of the Police Act 1964 and the Police Act 1976. In addition the legality of particular police action can be challenged through the courts.

5. Police Injuries

Between 14 March and 3 June inclusive, 315 police officers were injured whilst policing events associated with the current miners' dispute.

6. Costs of Policing

Police forces can usually cope with significant demands for additional policing by overtime and officers working on their rest days. But the Police Act 1964 also enables one chief officer to provide assistance to another (mutual aid). (The Act enables the Home Secretary to require a chief officer to provide such assistance; this power has not been used in the course of the miners' dispute.)

The force receiving assistance pays for help from another force on a basis agreed between the two police authorities; in the event of a disagreement the Home Secretary decides the basis of payment. These

payments normally cover the additional costs incurred in sending the officers to another area, overtime, travelling and accommodation, but not the basic costs of employing the officers. The sending force may also incur expenditure on overtime in its own area to maintain police cover; this expenditure would not normally be repaid by the receiving force. All the police forces in England and Wales have either given or received mutual aid (in some cases both) during the miners' dispute and will have incurred additional costs as a result.

50% of all police expenditure is met by police grant from the Home Office. The Home Secretary announced on 11 May that he would make available a special payment of 40%, in addition to the normal police grant, of gross approved additional expenditure incurred on policing the miners' dispute, above the threshold of a penny rate (which is calculated as 1% of the rateable value of the area). This means that for additional expenditure up to the product of a penny rate the police authority would pay 50% but that for additional expenditure beyond that point it would pay only 10%.

In his announcement the Home Secretary also expressed the view that, while it was a matter for the police authorities concerned to determine, it would be reasonable for the police authority of a force receiving mutual aid to make some payment to the sending authority in recognition of the additional expenditure incurred on overtime in that authority's own area as a consequence of providing mutual aid. He went on to say that the special 40% payment would take account of such payments for consequential overtime but not of any payment in respect of basic costs of officers and vehicles provided on mutual aid.

Home Office officials are discussing arrangements for the special payment with the Association of County Councils and the Association of Metropolitan Authorities.

Also on 11 May the Secretary of State for the Environment announced that additional expenditure incurred by local authorities on policing the miners' dispute in 1984-85 would be exempt from grant holdback; he had previously announced a similar exemption for 1983-84.

Written Answers to Questions

Friday 16 March 1984

ATTORNEY-GENERAL

Picketing (Criminal Law)

Mr. Steen asked the Attorney-General whether, in view of the recent activities of pickets, he will make a statement on the criminal law on picketing.

The Attorney-General: The statement that I made to the House on 19 February 1980 still applies in all its essentials, though there have, since that date, been certain changes in the relevant civil law which I shall explain later in this answer.

So far as the criminal law is concerned, the position is, as it always has been, that the criminal law of the land applies to pickets as it does to anybody else. Picketing is permissible, in terms of criminal law; only if it is peaceful picketing, that is to say, it is carried out for the purpose of peacefully obtaining or communicating information or peacefully persuading another person to work or not to work. The freedom to picket is not a licence to obstruct or intimidate.

This reflects the fundamental proposition of our law that each of us has the right to go about his daily work free from interference by anybody else. Each one of us is free, as an individual, to come and go as he pleases to his place of work. The law specifically protects our enjoyment of this right. If any one tries to deter us from exercising it by violence or intimidation or obstruction, he is breaking the law and may be punished. The freedom to picket does not confer or imply any right to stop vehicles: still less do pickets have the right to stop people going about their lawful business. Pickets have no right to link arms or otherwise prevent access to the place that they are picketing.

If pickets by sheer numbers seek to stop people going to work, they are not protected by the law since their purpose is to obstruct rather than persuade. The courts have recognised that the police may limit the number of pickets in any one place where they have reasonable cause to fear a breach of the peace. This may involve not only asking some of those present to leave but also preventing others from joining the pickets. In this connection, the code of practice which was issued under the Employment Act 1980, with the approval of both Houses of Parliament, indicates that in general the numbers of pickets should not exceed six at any entrance to a workplace. The 1980 Act itself provides that the provisions of the code of practice may be taken into account in proceedings before a court.

It is, of course, primarily the duty of the police to uphold and enforce the criminal law. It is for them to decide, consistently with that duty, what action any particular situation requires them to take. But there is no doubt that if a constable reasonably comes to the conclusion that persons are travelling for the purpose of taking part in a picket in circumstances where there is

likely to be a breach of the peace, he has the power at common law to call upon them not to continue their journey and to call upon their driver to take them no further. Any person who fails to comply with a police request in those circumstances will be committing the offence of obstructing a police officer in the course of his duty.

Turning now from the criminal to the civil law, it is and always has been a civil wrong to persuade someone to break his contract of employment or to secure the breaking of a commercial contract. However, the Trade Union and Labour Relations Act 1974, as amended, gives immunity from liability in respect of such a civil wrong to pickets who are acting in contemplation or furtherance of a trade dispute. But, since the Employment Act 1980, this immunity operates only for the benefit of a person who is attending a picket at or near his own place of work or for the benefit of a trade union official attending a picket at or near the place of work of a union member whom he is accompanying and whom he represents; and in either case only if the purpose of the picket is peacefully to obtain or communicate information or peacefully to persuade any person to work or not to work. Since the Employment Act 1982, trade unions themselves may be held liable for organising picketing which involves the commission of a civil wrong.

I hope that this re-statement of the legal position, which the Lord Advocate agrees reflects the main principles of the law of Scotland also, will serve to remove any doubts that might remain in any quarter about the strict limits within which pickets may seek to press their views on their fellow-citizens. As I said in my earlier statement to the House, it is the function of the law to protect the right of every person to make his own decision, free from violence or any other form of intimidation, on whether or not to work. The law permits no interference with that right and recognises no privilege or immunity vested in any person, merely because he is engaged in picketing, to act in a way which constitutes a criminal offence. That has always been the law and I am sure that those responsible for enforcing it will have the support and encouragement of the vast majority of the people of this country in ensuring that it is indeed enforced vigorously and without fear or favour.