



01-405 7641 Extn

Cf: Please copy to Mr Booth (Bling Unit) and then p.a.

amb  
12/4

ROYAL COURTS OF JUSTICE  
LONDON, WC2A 2LL

Prime Minister

The A-G's reply to  
Mr Benjamin on prosecution  
for conspiracy.

7 November, 1984.

amb  
9/11

MB

Dear Francis.

Thank you for your letter of 31 October 1984 enclosing the copy of the article which you promised to send me.

I have read it with great interest, and would like to compliment you on a very well-researched and well-reasoned article.

There is no dispute between us that mass picketing, as it is currently being carried on, does in practice lead to the commission of various "ordinary" criminal offences, e.g. assaults, breaches of the peace, unlawful assembly and even, in particularly bad cases, riot. As you know, many of these already have been, or are now being, prosecuted in the courts. I also substantially accept your main conclusion that mass picketing probably involves the commission of an offence under section 7 of the Conspiracy and Protection of Property Act 1875 and that those who organise it are guilty both of the substantive offence and of a conspiracy to commit it. But I would add the caveat that certain aspects of your reasoning and conclusions may be disputable and almost certainly would be disputed if they formed the basis of a charge in particular proceedings.

I still fear, however, that you underestimate the difficulty of securing evidence, usable in court, that a specific defendant committed the specific acts alleged against him, particularly if what the Crown is alleging is a conspiracy to contravene section 7 of the 1875 Act. It is one thing to be satisfied, intellectually, that an offence of this nature must have been committed by somebody: it is quite another to prove beyond reasonable doubt that a particular person has committed it.



I have said before, and I have to say again, that the collection of evidence is for the police and not for me or the Director of Public Prosecutions. We have in fact not been shown any evidence sufficient to mount the sort of case which you and I have been discussing in this correspondence; neither do we know of any lines of enquiry which we could suggest to the police which are not already well-known to them. There is no policy, so far as I or the Director of Public Prosecutions is concerned, of not prosecuting if the evidence is available. Neither, I might add, have we in any way discouraged the obtaining of evidence.

I have now received your further letter of 5 November which was sent in reply to mine of 2 November. In view of what you say about the attitude of the police and the possible intervention of the Home Secretary, I am copying this letter (and our previous correspondence) to the Home Secretary. It has seemed to me for some time that it was perhaps to him rather than to me that you should have been addressing your representations! I am also copying the correspondence - or such of it as he has not already had - to David Barclay at No.10.

*Yours Gr. Michael*

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