



2 MARSHAM STREET
LONDON SW1P 3EB

My ref:

Your ref:

2 April 1985

Dear Robin

FOOTBALL SPECTATOR VIOLENCE

/ I enclose a draft letter for the Prime Minister to send to the Chairman of the Football Association summarising the outcome of yesterday's meeting.

I am copying this to Rachel Lomax (HM Treasury), Hugh Taylor (Home Office), John Graham (Scottish Office), Richard Allan (Department of Transport), Phil Dykins (Office of the Minister for Sport), Alistair Harrison (Mr Renton's Office), and Richard Hatfield (Cabinet Office).

Yours ever,
A C Allberry

A C ALLBERRY
Private Secretary

Robin Butler Esq

02 APR 1985

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1.

DRAFT LETTER FOR THE PRIME MINISTER TO SEND TO F A MILLICHIP ESQ,
CHAIRMAN, THE FOOTBALL ASSOCIATION, 16 LANCASTER GATE, LONDON W2 3LW

FOOTBALL SPECTATOR VIOLENCE

I was most grateful for the constructive and helpful discussion we had on Monday. It is clear that we share a firm commitment to implementing vigorous new measures to combat the continuing problem of violence at football matches. You must be in no doubt of the Government's resolve to support you and the Football League in taking every action you can to prevent and control incidents, so that football can become once again a family entertainment and sport.

In our discussion you, and the Football League, agreed to

- re-examine urgently the FA rules governing discipline and the responsibilities of clubs, with a view to changing and strengthening them. You will look in particular at the possibility of removing the reference to "all reasonable precautions";
- accelerate the introduction of CCTV especially at grounds where problem matches may be played;
- ~~to~~ ensure that perimeter fencing is in place and effective; *in Home grounds*
- investigate a practical scheme of membership cards for Football League, FA and European/International matches, ~~and~~ *in* ~~discriminate~~ *discriminate* ~~UEFA agreement~~ *UEFA agreement*, You agreed to report back to Neil Macfarlane within 6 weeks;
- introduce more restrictions on the issue of tickets for problem matches (which should be ticket only);
- encourage more and better family enclosures at League grounds;
- deal severely with any bad example set to supporters by players' behaviour on the pitch. *?*

2.

I hope that ~~the~~ significant ^{Progress} ~~money~~ can be made before the start of the season.

The Government will support you. We will be announcing shortly in a White Paper our conclusions following the Public Order Review and our proposals for new legislation in the Autumn. There will be some new provisions which are of general application, but will assist in preventing and controlling football hooliganism.

That legislation will also include the powers to control the sale of alcohol at grounds, and on transport to grounds, along the lines of those that have been successful in Scotland. I explained that we do not intend to implement a comprehensive ban on alcohol under the new legislation; ~~as in Scotland,~~ we propose to designate particular clubs, according to their record. In advance of that legislation, I hope that you and the clubs will take action under your existing powers to ban alcohol from matches.

The Home Secretary will also be discussing with the police what improvements can be made in their effectiveness in dealing with football hooliganism, and in particular the obtaining of evidence needed to bring more serious charges where that is appropriate. He is encouraging magistrates to make full use of their powers, including detention centre and attendance centre sentences where appropriate, and is drawing attention to the Court of Appeal guidelines on sentencing violent offenders, and the availability of bail conditions forbidding attendance at matches pending trial.

The Home Secretary also proposes to review the guidelines issued, in the Green Code, under the Safety of Sports Grounds Act; he will ~~also~~ extend designation under the Act to clubs in Divisions 3 and 4 of the Football League, starting with those where there has been a record of violence.

The Government will support you. We are prepared to take action in the following ways:

FA/News
AG

- ~~Introduce~~ ^{will be introduced} legislation to control the sale of alcohol at grounds, and on transport to grounds, along ~~its~~ ^{the} lines that have been successful in Scotland. The powers would ~~be used to designate clubs having a bad record selectively.~~
- Under the Safety of Sports Grounds Act, designation will be extended to clubs in Divisions 3 & 4 of the Football League, initially to ~~problem~~ ^{problematic} grounds with a record of violence and the guidelines in the Green Code will be reviewed
- ~~The~~ White Paper is to be published ^{our conclusions} shortly ~~in the autumn~~ ^{of the autumn} following the Public Order Review and ~~our proposals for legislation in the autumn~~ ^{of the autumn} of the review of the Public Order legislation. Some of the ~~new proposals~~ ^{provisions} will be of particular ~~importance~~ ^{benefit} in preventing & controlling football hooliganism
- The Home Secretary will ^{be} discussing with the police what improvements can be made to the effectiveness in dealing with football violence, particularly by ~~considering how to obtain any~~ ⁱⁿ evidence to bring more serious charges, where appropriate.
- The Home Secretary will ^{be} encouraging magistrates to make full use of their powers, including detentions and attendance centre sentences ~~where appropriate~~ ^{and bail conditions forbidding attendance at matches; and in drawing attention to the} Cent of Appeal guidelines on sentencing violent offenders, and ~~to the availability of bail conditions forbidding attendance at matches.~~

~~Discussion will take place~~

- ^{Discussion will be held} ~~Disc~~ with other governments ^{on} what ~~could~~ ^{can} be done to deal with ^{and we are} ~~examining~~ ~~arrangements for travel to members~~ ~~with the UK.~~

considering arrangements for people sentenced for offences overseas to serve ^{the} sentences in their country.

I believe this represents a substantial package of new measures from the Government to support the ~~new tough line~~ ^{strong action} you and the Football League have agreed to take. I welcome your initiatives and the constructive, firm approach you have adopted. I ~~feel~~ ^{feel} confident that progress will ~~now~~ be made ^{in dealing effectively} with the ^{problem.}

I am copying this letter to Mr Jack Dunnett.

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02 APR 1985

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CONQUEROR

Prime Minister

We must get out what the Government is prepared to do -

Alcohol - extend Scottish legislation to designated grounds

Safety of Sports Grounds - designate problem grounds in 3rd + 4th divisions

Public order - amend law through Home Secretary's review

Police enforcement - discuss with police better preventive measures and collection of evidence

Sentencing - encourage courts to make full use of powers

Overseas matches - discuss with other governments and look at organised trips.
Sentences to be served at home?

You may want to stress
what we will do —

- Alcohol legislation
 - Public Order - White Paper - Bill
 - 1975 Act - Safety of Sports Ground
Designation - Divs 3 & 4
 - Police Enforcement
 - information gathering
 - evidence
 - communications
 - Courts
 - severer penalties
 - attendance centres
- ⇒

The Football Association has assumed the responsibility of dealing with "all cases of misconduct connected with the playing of matches by Clubs" for which purpose it appoints a Disciplinary Committee. The underlinings are mine in order to emphasise the concept of wrongdoing, fault or blame - call it what you will.

The present problems arise basically because of the outrageous anti-social behaviour of certain elements of our society which have become so serious as to jeopardise at the very least the enjoyment by many of one of our great national sports and, at worst, its very future existence. It is not restricted to the world of soccer though current thoughts are concentrated in this direction.

Whenever there is disorder with actual or potential serious consequences on a large scale, the public in general always seeks to allocate blame for what has happened - this is perhaps understandable in the atmosphere of crisis which pervades - but this thin desire for scapegoats is nonetheless provided by those who ought to know better and who have simply not "thought it through" rationally.

It is a basic rule of our law that no person or body is normally to be regarded as responsible for the acts of another or liable for its consequences. Certain exceptions to this rule do exist, most obviously the master/servant or employer/employee situation or, in certain contexts, the situation of

principal/agent. No-one could suggest that soccer hooligans or thugs are employees or agents of the Clubs which they pursue (nor in my view are they properly called "supporters" though this term is frequently used; if they were true supporters they would presumably not wish to do anything which might damage the reputation or future of the Club), when they behave badly, whether inside or outside soccer grounds, on trains, in public houses, in public streets, there is no principal^{le} of law by which their acts can be imputed to the Football Club in whose name they profess to be acting. C/F: the master/servant relationship, in which the acts of a servant which are outside the scope of his employment and which are neither approved nor condoned by the master are NOT acts for which the master can be held responsible. Of course the conduct referred to is criminal conduct in respect of which the Police must act (with the support and co-operation of the Clubs concerned, the F.A. and the Courts), but the criminality is theirs and theirs alone and cannot in my view be imputed to anyone else.

However, the status of the hooligan being what I have said does not alter the fact that he exists and is known to exist in sufficiently large numbers not to be ignored, it is because of this reality that a prudent Club has no alternative but to take all reasonable precautions and to exercise all due diligence to ensure that the hooligan element is contained, deterred, split up, kept away and that whatever can reasonably be done to prevent it from causing damage or chaos is done. The implications of "reasonable precautions" and "due diligence" are matters of great difficulty, depending as they do upon expert professional guidance coupled

with lessons from past experience, and involving enormous potential expense (all of which are factors to be weighed carefully in the balance); the point which must be emphasised, however, is that all this responsibility which falls on the shoulders of the Football Clubs is based NOT on any responsibility for the acts or defaults of the hooligans but entirely on its responsibility for its own acts or defaults in preventing the consequences of conduct which it knows may and indeed almost certainly will arise.

I have been invited to consider the wording of a proposed re-drafted rule 31(a) and (b) of the FA rules. I have to say at once that my conclusion is not in favour of the proposal for a number of reasons:-

- (1) Rule 31(a)(i) The word "absolutely"

I read this in conjunction with paragraph 2 of page 2 of the FA letter to the Minister dated 20th March. As drafted, however, unless a hooligan can properly be called a member or person fulfilling a mission(!) it doesn't seem to me to have the effect described in the letter.

However, even if one altered or amended the wording in order to create liability for the acts of hooligans, I would regard this as open to grave objection. I have two main reasons for saying this:-

- (i) The FA would be seeking to create a liability within its own disciplinary arrangements which goes far beyond any comparable liability known either to the civil or

criminal law of England, i.e.. by removing the element of misconduct or negligence (by act or default) the Clubs could be made responsible for the acts of hooligans over which it has no control.

(ii) Even if such a liability were created with the approval of the Council, it would be quite impossible for the FA to impose any sentence or sanction on any Club convicted in such circumstances. There is no way in which misconduct and/or discipline can be divorced from the concept of moral wrongdoing or negligence.

The Commission would find itself in the same position as the High Court in the case of HART V. BEX 1957 Crim. L.R. 622 - a defect in a breaking system (a case of absolute liability) arose unexpectedly and suddenly about which the driver had no knowledge, the High Court ruled that either the Police should have refrained from prosecution or that, if he was charged, he should be given an absolute discharge.

Consequently I conclude that the FA is under no duty to introduce any change which involves a concept of responsibility without blame and that to do so would be unfair to the Clubs, counter-productive and meaningless. If having regard to the public policy aspect, there is to be any pressure for making Clubs liable for damage caused by hooligans on a so-called absolute basis, such radical measures could only be created by Acts of Parliament; I would have expected all football clubs to resist any change in the law which could make them responsible for acts over which they have no control - and on mature reflection I would expect the FA to support them in resisting such measures.

In my view, a more constructive approach would consist of examining and defining yet again all those areas in which precautions can be taken to prevent hooligans from achieving their objects and in particular those aspects where Clubs can advise, assist and co-operate with the Police at all stages; each Club must presumably consider the problems of every match and make its preparations in advance - and would be well advised to keep a record of all the decisions made, precautions taken etc. For my part I would not seek to list the precautions in any of the FA rules - partly because conditions can change almost from one week to the next; but it is imperative that all clubs be kept fully informed of the F.A.'s views as to what "proper precautions" and "due diligence" involves by circularising such information on a regular basis. There is much also to be said for making Clubs acknowledge receipt of such information - although of course the FA is presumably under no obligation to ensure that clubs carry out the precautions.

MICHAEL PRATT
1 PAPER BUILDINGS
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EC4

Football
memo

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Clearly the Government is concerned to take steps to
 minimise the risk of disorder. Mr. Macfarlane therefore
 wrote to the Football Association requesting them to change
 the date of the game. Fixture congestion in England proved
 to be a problem and the Scottish Football Association have
 agreed to the game being played in Scotland. There was no
 Government instruction to change the venue. It is an
 acknowledgement of the good behaviour of Scottish fans that
 the match has been transferred to Hampden Park.

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