

Mr. Harkish. It open a file on this.
to better effect - there may be follow-up

cc Secretary
Mr Whitlaw
Mr Joiner
Mr Mackenzie

PS

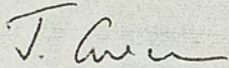
PS/Minister

J. L.
1372

CARAVAN AT MARYFIELD

1. You asked me about the legal position in respect of the caravan presently parked behind the public footway at the entrance to Maryfield.
2. Divisional records indicate that the vehicle is parked on Roads Service land.
3. It is therefore open to the Department to bring prosecutions under Article 48 of the Roads (NI) Order 1980 (attached). Under this Article any person convicted of an offence is required within such time as the Court may allow to remove from the road his encampment and if he fails to do so he shall be deemed to commit a continuing offence. It is necessary to obtain a conviction in the Magistrate's Court and if the person so convicted fails to remove his encampment within the time allowed the Department is permitted to do so itself.
4. The alternative remedy is by way of Originating Summons under Order 113 of the Supreme Court. The basis of such an action is trespass. The main problem about using Order 113 in the case of a road where a caravan is simply parking on the verges in a ribbon is that of defining specifically the area of land which is to be made the subject of the Court Order. If one is to limit the Order to the area which is directly occupied by the caravan then the owner can simply move a short distance away. Where an Order is obtained under this legislation it can only be enforced by the Enforcement of Judgments Office.
5. A further point to note is that the Northern Ireland (Emergency Provisions) (Vehicle Control Zone) Order 1985 indicates that Holywood Road from its junction with Belfast Road to a point 700 metres on the Belfast side of that junction is a road on which no vehicle is to be left unattended at any time. This Order was made under the NI (Emergency Provisions) Act 1978 and could no doubt be modified if thought necessary to include the entrance to Maryfield. Enforcement action in these circumstances would presumably fall to the security forces.
6. The question arises as to the wisdom of proceeding with enforcement action in this particular case. Roads Service policy under Article 48 is one of selective enforcement having assessed the merits of each particular case. Where an encampment (normally itinerants) on Roads land is not creating a traffic hazard or danger to roadusers or generating sufficient nuisance to cause public complaint then no action may be initiated.

7. The siting of the caravan at the entrance to Maryfield has been carefully done. It is completely off the public footpath and appears not to constitute a hazard to road users. No complaints have been received so far from members of the public. Any attempt to initiate legal proceedings and subsequently engage in the physical removal of the vehicle on the grounds that it is technically in contravention of the Article 48 of the Roads Order may be resisted and frustrated and is likely to attract media attention and publicity out of all proportion to the offence which has been committed. Local RUC officers have already been advised by the occupants that any attempt to move them will result in larger numbers of caravans being parked in the immediate vicinity.
8. The procedures available to us require some months to fully implement and no immediate removal of the encampment is possible.
9. On a related issue, the display of "Ulster Says No" posters on traffic signs and lampstandards we have also adopted a policy of selective enforcement. Only those posters which obscure traffic information or interfere with maintenance activities have been removed to date. Even this has attracted verbal threats to two Divisional Roads Managers from DUP elected representatives.
10. Subject of course to any wider implications Roads Service would favour no immediate action at present.



J COWAN
Roads Service Headquarters

7 February 1986