PREM 19/3380

MT

PART 3

CONFIDENTIAL FILING

Review of the Law on Public Order

HOME AFFAIRS

PT 1 : MARCH 1980

PT 3 : JUNE 1986

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
~~5.6.86~~		~~11.2.87~~ ~~5.5.87~~					
~~9.6.86~~		~~29.7.87~~					
~~14.6.86~~		3.V.V7					
~~16.6.86~~		~~7.8.87~~					
18.6.V6		~~30.10.V7~~					
~~19.6.86~~		~~6.10.88~~					
~~20/6/86~~		~~30.10.87~~					
~~25.6.86~~		17.6.91					
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SERIES CLOSED

END OF CONSERVATIVE ADMINISTRATION

1 MAY 1997

TO BE RETAINED AS TOP ENCLOSURE

Cabinet / Cabinet Committee Documents

Reference	Date
CC(86) 26th Meeting, item 1	03/07/1986
CC(86) 22nd Meeting, item 1	05/06/1986

The documents listed above, which were enclosed on this file, have been removed and destroyed. Such documents are the responsibility of the Cabinet Office. When released they are available in the appropriate **CAB** (CABINET OFFICE) CLASSES

Signed J. Gray Date 22/2/2017

PREM Records Team

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

17 June 1991

Dear Colin,

PUBLIC ORDER IN THE INNER CITIES

The Prime Minister was grateful for and has noted the Home Secretary's minute of 14 June assessing the prospects for public order in inner city areas over the summer.

I am copying this letter to the Private Secretaries to members of E(UP) and to Sonia Phippard (Cabinet Office).

Yours sincerely,

William

WILLIAM E CHAPMAN

Colin Walters, Esq.,
Home Office.

HOME SECRETARY

Prime Minister ④

WEL

14/6

PRIME MINISTER

PUBLIC ORDER IN THE INNER CITIES

Since the riots of 1981 my officials have consulted chief officers of police in the spring of each year about the prospects for public order in inner city areas in the months ahead. You will wish to know the outcome of this year's exercise.

SUMMARY

General Assessment

2. This year, as in recent years, chief officers were reasonably optimistic that serious public disorder could be avoided in the coming summer. The potential for serious public disorder remained but there seemed to be a greater confidence than in earlier years in the ability of forces to nip disorder in the bud and prevent the development of major incidents.

DETAIL

General : triggers for disorder

3. (i) Drug dealing: the risk arose following successful police action against offenders rather than from rivalries between dealers.

(ii) "Blues parties" and acid house parties: improved intelligence gathering and successful police operations have acted as deterrents against would-be organisers of such events.

(iii) Unrest in the Asian sub-continent: this could provide a catalyst for trouble from the younger generation of the Asian community.

(iv) Theft of high performance cars: some forces reported localised disorder where youths stole these cars and drew the police into a chase. Disorder can arise when the police try to make arrests.

(v) Extremist activity: Militant Tendency was active again in Liverpool. The Metropolitan Police were monitoring Thamesmead for any indications of increased right wing activity.

Police readiness: tactics and equipment

4. Inner city forces give a high priority to public order training and many are developing particular expertise to deal with the problems which arise in their own force areas. Improvements in intelligence gathering and the use of tension indicators are paying dividends in terms of preventive policing by identifying potential difficulties.

5. Equipment and tactics for dealing with disorder are kept under constant review. Chief officers believe that their own latest thinking should provide for increased expertise and the ability to deliver a swift and effective response to disorder if it occurs.

Police and Community relations

6. One of the most encouraging features of this year's reports from chief officers is that the continued commitment to improve community relations, through community policing and liaison with local bodies, is seen to be having a positive effect in diminishing the potential for disorder.

7. I am copying this minute to members of E(UP) and to Sir Robin Butler.

K.B.

14 June 1991

file

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a:/public.dsg

bc: Policy Unit

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

6 June 1990

PUBLIC ORDER IN THE INNER CITIES

The Prime Minister has seen and noted without comment the Home Secretary's minute of 5 June giving his regular annual report.

Caroline Slocock

Peter Storr, Esq.,
Home Office.

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Prime Minister

CAB 5/6

Prime Minister

PUBLIC ORDER IN THE INNER CITIES

In the Spring of each year since 1981 my officials have consulted chief officers of police about the prospects for public order in inner city areas in the months ahead. You will wish to know the outcome of this year's exercise.

2. The riots of 1981 and 1985 were followed by a positive response by the police service on two tracks: first, greater efforts were made to build better relations with the local communities; and second, police training and preparedness to deal with disorder when it did break out was greatly increased. This dual approach has been well sustained and has successfully prevented prolonged episodes of rioting over the last four years.

SUMMARY

General assessment

3. A year ago the chief officers expressed cautious confidence about the prospects for 1989. Their assessment was justified by events. This year chief officers were again reasonably confident that serious public disorder could be avoided in the months ahead. They stressed, however, that a single spontaneous incident could spark serious disorder. Despite the riot in Trafalgar Square on 31 March chief officers did not see the community charge as likely to provide a continuing focus for serious disorder.

West Yorkshire: a possible exception

4. An exception to the general view came from West Yorkshire where the chief officer considered that the potential for disorder in his area was somewhat higher than in recent years.

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The two matters which caused him particular concern - the continuing Muslim outrage over "The Satanic Verses", and the risk to public order from police operations against drugs dealers - were not confined to his force area, but the problems might be particularly acute there.

DETAIL

General: triggers for disorder

5. As in past years drugs dealing was identified by chief officers generally as a potential trigger for serious disorder. The police are sensitive to the fact that they tread a fine line between taking effective action against drug dealers and risking major disorder following their actions. It is to the police's great credit that successful operations, based on improved intelligence gathering and careful planning, have been carried out without precipitating major disorder. 'Blues parties' and acid-house parties where drugs may circulate also pose difficult policing problems. Again, advance intelligence and strong action has proved effective, but police intervention places a heavy burden on resources.

6. Rivalry between Asian groups and opposition among Moslems to "The Satanic Verses" are also possible catalysts for disorder. Last year action was taken, under the Public Order Act 1986, to ban marches protesting about "The Satanic Verses" where clashes with other groups threatened serious disorder. Chief officers will not hesitate to seek bans in similar circumstances this year. In the past few months, however, the campaign against the book has been dormant, and a recent meeting of UK Muslim leaders agreed to press for changes in the law rather than pursue their protest on the streets. The Moslem Youth Movement may reject this line and be willing to provoke disorder. If the book is published in paperback, further impetus is likely to be given to the campaign of protest.

7. Greater Manchester reported that trouble in the Chinese community caused by the Triad activity has become much more serious. Except in scale and intensity this is not a new problem, and most major cities have some Triad activity, but public awareness of it is low because, so far, disorder has

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been contained within the Chinese community. But there is concern that the present state of Triad gang warfare may lead to a new intensity of violence. A national conference of the police forces mainly concerned has already had two meetings to co-ordinate measures to contain the Triad problems.

Police readiness: tactics and equipment

8. Since 1985 there has been a major improvement in public order preparedness so that the police can and do respond swiftly and in strength to an incident and prevent its escalation. Equipment and tactics for dealing with disorder are kept under constant review. Intelligence gathering also has an important part to play in preventive policing by identifying potential difficulties, and police improvements in this area are paying dividends.

Police and community relations

9. The police have devoted a good deal of effort to building improved community relations and in some areas this has borne fruit. It is encouraging, for example, that the police feel that in the St Paul's area of Bristol they are beginning to win more support from local residents.

Police and the general public

10. Last year chief officers reported a reduction in the general willingness to take hostile action against the police. This year chief officers reported their belief in a general deterioration in public behaviour towards the police and a willingness to assume that the police were in the wrong. This change in mood may have contributed to the Metropolitan Police's underestimate of both numbers and readiness to resort to violence in the community charge protest on 31 March.
A number of chief officers felt somewhat beleaguered and asked for full and more evident public support from Ministers. The police could certainly do more to improve their image by taking the initiative themselves and explaining how they are tackling

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the service's problems. At the same time, the police do need, and should have, the support of all responsible citizens in carrying out their duties in difficult and often dangerous circumstances. As Home Secretary, I have a primary responsibility here which I shall continue to fulfil - as I did, for example, in my recent speech at the annual conference of the Police Federation - but other members of the Government can also help as suitable occasions arise to show the police service that they have our support.

11. I am copying this minute to members of E(UP) and to Sir Robin Butler.

5 June 1990

CONFIDENTIAL

PRIME MINISTER

PUBLIC ORDER IN THE INNER CITIES

As usual at this time of year my officials have recently consulted chief officers of police about the public order situation in inner city areas. You will wish to know the outcome. You may also wish to be aware of the steps taken by the police to tackle disorder in market towns and villages.

2. After the riots of 1981 and the positive police response to the Scarman Report, the fact that there were more riots in 1985 led to a gloomy view about the prospects of further disorder in inner cities. Despite the considerable and successful efforts of the police to prevent major riots since then, there remains much violent disorder on a smaller scale. The incident at Heathtown, Wolverhampton, on 27 May, where a crowd of youths attacked a public house after the police had conducted a drugs raid, is an example of the problem of resistance to vigorous policing which chief officers have faced in recent years. It is understandable, therefore, that chief officers are cautious in their judgments about the prospects for renewed serious disorder in 1989.

3. In 1988, while there was no reason to believe that serious disorder was likely, few chief officers would have been surprised if it had occurred. In the event, last summer passed without any major breakdown of public order in the inner cities. More encouragingly, chief officers reported a change in the general mood: there seemed to be a reduction in the willingness to take concerted hostile action against the police, and the sense of intense frustration in inner city areas seemed to be diminishing.

4. The 1988 improvement in public mood is again reflected in chief officers' assessments for this summer: they express a cautious confidence that major disorder can be avoided, but in their view the potential for it in the inner cities remains such that a single mishandled incident could trigger a riot.

5. There is one exception to this message of "cautious confidence". The Merseyside Police consider that the potential for serious disorder in the Toxteth area is somewhat higher than in recent years. The main threat here comes, as in previous years, from youths, white and black, on the streets of Liverpool 8. Trials of some locally prominent black people on drugs charges are expected to take place during the summer.

Triggers for Disorder

6. The sorts of incidents which might trigger serious disorder are well known to the police. Action against drug dealers is particularly sensitive. The police have to weigh carefully the risk of serious disorder following their action against the need to act effectively against the most dangerous drugs, particularly cocaine and "crack". Well planned and well executed police operations can and do succeed in enforcing the law without precipitating serious disorder.

7. Tensions between and within Asian groups, particularly those in London and the West Midlands, could also provide problems for the police. The protests against "The Satanic Verses" have revealed a new spirit of militancy and religious fervour among young Moslems. For the first time, within the Asian communities in this country, an external religious loyalty has come into conflict with the generally accepted duty to respect the law. I have taken action under the Public Order Act 1986 - and shall if necessary do so again - to ban marches protesting about "The Satanic Verses" if Chief Constables consider that serious disorder will result. Demonstrations in London on 27 May resulted in over 100 arrests, and in Bradford on 17 June in over 44 arrests. The disturbance in Dewsbury on 24 June was a response by young Moslems following separate demonstrations by the British National Party, and a black workers'

group. Although the police are encouraged by the co-operation they have received from the older religious leaders in the Moslem communities, it is increasing clear that there are young Moslems who reject their elders' policy of peaceful protest.

8. Notable improvements were achieved last year in the organisation and policing of the Notting Hill Carnival. This resulted in a substantial reduction in the number of reported offences (193, compared with 713 in 1987). The police intend to follow a similar strategy this year. They have expressed satisfaction with the co-operation they have been receiving from the organising committee, which has undergone a change of membership.

Police Preparedness

9. The police capacity to deal with disorder is greater than in 1985. Chief officers give the maintenance of public order a high priority. Training and equipment for dealing with public disorder are kept under constant review. The police keep closely in touch with the public mood in inner city areas.

10. But chief officers recognise that successful preventive policing depends upon earning and retaining the goodwill and support of the communities which they serve. The police are devoting much effort to winning over the law-abiding mahjority, and they are having some success. Public response is patchy, but even in the St Paul's area of Bristol, for example, there is evidence that willingness to support the violent and to obstruct the police is diminishing.

11. The police are playing their part in helping to improve the quality of life in the inner cities, as their contribution to Government and voluntary initiatives, including the Safer Cities programme, has shown.

PUBLIC ORDER OUTSIDE METROPOLITAN AREAS

12. Chief officers have reported that disorder outside the main centres of population appeared to be higher in 1988 than in 1987 (20 forces reported

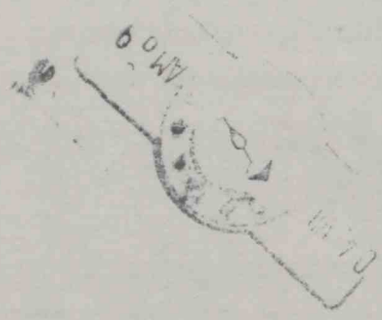
an increase, nine a decrease and ten no change). This trend seems to have continued during the first three months of 1989. The police emphasise that these figures should be treated with caution: they are largely impressionistic, as few forces have recording procedures which would allow reliable comparison to be made. The scale of the problem has not decreased, but if there has been an increase it has been relatively modest.

13. Chief officers' reports document an impressive police response to the problem. I mentioned in the Cabinet paper which I prepared last September on rural disorder that we were preparing guidance to chief officers about the issues raised by the outbreaks of trouble, much of it connected with stupid drinking, in market towns and villages. 36 forces have now taken steps to improve liaison with the licensed trade and 26 have launched other multi-agency initiatives. 23 forces, in liaison with the courts, are pursuing a policy of more rigorous enforcement of the licensing laws. 15 are operating "pubwatch" schemes and seven have identity card schemes for young drinkers. 31 forces have adopted new policing strategies, as recommended by the ACPO/Home Office Working Group on Disorder in Isolated Areas. Better intelligence-gathering arrangements, changes in manpower deployment and the introduction of high profile patrolling are among the changes which have been made. While it is too early to assess the effectiveness of these initiatives, they are an encouraging sign of the willingness of the police to adapt their response to meet the challenge of non-metropolitan disorder.

14. I am copying this minute to members of E(UP) and to Sir Robin Butler.

Douglas Hurd.

4 JULY 1989



PRIME MINISTER 30 October 1987

LAW AND ORDER

In the last fortnight the Commissioner of the Metropolitan Police has set out his stall to his men and the criminal statistics for last year have been published.

The former was well received. The latter has passed with little notice. I have highlighted the main points of Imberts speech to allow a quick glance. He is going for consolidation. He also challenges the Government (page 8) on use of police cells.

HARTLEY BOOTH

SPEECH TO ANNUAL MEETING OF MP FEDERATION - 20 OCTOBER 1987

Home Secretary
Mr Chairman,/ladies and gentlemen. No-one can take up the office of Commissioner of the Metropolitan Police without pride and without humility. I have now been your Commissioner for less than three months, a small time in the history of this great Force of ours which, in the century and a half if its existence, has helped to make London one of the great civilised capitals of the world. This historical achievement ought to give us all, however new we are to our office, a degree of professional assurance when we examine the problems that confront us now.

I am acutely aware that we in the Metropolitan Police have come through a period of serious, far reaching, and quite rapid change. Change can be an uncomfortable and sometimes painful process. Nothing worthwhile comes easily. You mentioned, almost in passing, Mr Chairman, the Force reorganisation; I believe that that reorganisation was necessary, indeed vital, if we are to make the best use of the wealth of talent within the Force and continue to give the best possible service to the public.

The reorganisation was, however, carried through in a period in which the legal framework of policing was also changing. The implementation of the Police and Criminal Evidence Act and the introduction of the Crown Prosecution Service, which has already been mentioned, together with the reorganisation, made a formidable challenge - a challenge which you accepted.

At the same time you have carried on with your normal work of preventing and detecting crime, giving confidence to Londoners by keeping the peace in difficult times, as well as all the other duties which make the police the first public service in this country. The weight of duty has been heavy, and not widely appreciated. It's time it was.

I acknowledge and agree with what you say about morale. It is now time to consolidate. The next few years should be a period of relative stability. I say relative stability advisedly. Almost certainly there will be some further changes as we learn from experience. You will demand them and so will I. But we have had our major reorganisation and it is now up to us to make the most of the advantages it has given us. That is what I believe consolidation means.

I have also noted the points which have been made by your Chairman about wastage and about London Allowance. The two are inextricably linked. Policing is a difficult profession, no matter where you work, and everywhere has its problems, but when the consolation for working in London is to find that the price of the average three-bedroomed house is often double that for many other parts of the country; when the reward for bringing up youngsters in the concrete forests of this great capital of ours is to reduce their quality of life compared with their cousins enjoying the freedoms which shire life brings with it; if the bonus for the officer's wife shopping in the Metropolis is to find that the cash in her purse doesn't buy the goods that it could and would have bought in her native part of

the country; can I really expect officers to choose to work in London? Perhaps I'm a hard task master but I think I can.

I fully support the comments that have been made by your Chairman about London Allowance. If we expect officers to work in capital city and inner city conditions, they must be properly compensated. That is one side of the coin. I promise you that I will continue to fight our corner in the competition for proper recompense and adequate resources, but I can presently give no guarantees about additional manpower beyond what has already been pledged to us by the Home Secretary. Quantity is outside our control; high quality of performance is within it. Quality and excellence must be synonymous with the name of the Metropolitan Police. The pursuit of excellence is a quest which never comes to an end. As the demands on the police continue to grow, so we have to become better.

But if you are to do what is asked of you, you also have a right to expect good, effective, professional leadership. It is part of my job to ensure that the right people are appointed to the critical positions, people who will be leaders as well as managers. But the police service is almost unique in the degree of personal responsibility it gives to young people. We ask a lot; so very often we get more than we could reasonably expect. Sometimes we get less. So much depends on our relationship with the public. For if that relationship goes wrong, little else will go right. We must guard it, cherish it, and build on it. In this area you may not find it surprising when I say that senior officers matter less than the constables on the beat. Those shoulders carry the

reputation of the Force, and it is an ironic reality that those at the front line of policing are so often our newest recruits; it is therefore of the utmost importance that those of you before me now, so many of you experienced officers, nurture our raw material and teach them well.

In recent years the relationship with the public has been given a new dimension. To reduce crime we need to prevent it, and to do that more effectively, you and I have been building a regular, continuous, and working partnership with the public. Although it is very much centred on the consultative groups, it extends to neighbourhood watch, crime prevention panels, and other bodies. In some places we have run into opposition, but the tide is now with us. Your Chairman commented on this. The people of London are too keen to contribute to the fight against crime to listen to the hostile voices on the political fringe.

Even so, those voices, especially when they were heard in some local authorities and schools, have done immeasurable damage by poisoning the minds of some morally vulnerable young people. For years there was what amounted to an organised campaign of defamation against the police. Happily, such influence is fading. Yet our relations with youth, especially those from the minority ethnic groups, are so often fragile, and about that something must be done.

In the long run, our reputation lies in our own hands. Our methods, our manners, and the results we achieve will determine how the public sees us.

I want to see, indeed we must all see, further growth in the pride of the Metropolitan Police. I believe this question of pride is connected with one of the problems we have to tackle, the problem of wastage of which your Chairman and I have already spoken. We have no difficulty in finding recruits for the Force. There are five applicants for every place. We are in a position to be choosy; and I devoutly hope we can keep the advantage. However, no one force in the country can be expected to train some 2,000 new recruits a year in order to end up with a net gain of only about 300 officers, whilst too many of our experienced and trained officers are leaving the Metropolitan Police for other forces.

This is a source of anxiety. It is good news for other forces; as a Provincial Chief Constable, I was more than happy to get well-trained and experienced officers who had learnt their trade in the hurly burly of the Metropolis. But why should they leave? I have been very strong on one point; any reduction in the quality of life for them and their families should be adequately compensated. But the demands of the job that they have to perform here is not the only reason for leaving; because there are advantages, and many of them, and perhaps you and I are at fault for not making known those advantages and making more of them. I happen to believe there is no better nor more exhilarating and challenging Force in the world in which to work than the Metropolitan Police. I am sure that fewer officers will want to leave a Force in which they have serious pride and which the public look up to. Let's rekindle that pride; let us enhance the public esteem in which the service is already held; but there are things to be done and only we can do them.

I recently saw a newspaper report, probably exaggerated, in which an unnamed officer maintained that, out of the 27,000 in the Force, most of the work was done by 6,000. I won't comment on that figure. What I will say is this. If there are indolent police officers, we don't need them and don't want them. We are providing a service to London, and our self-esteem must grow from providing that service to the limit of our resources and our individual abilities.

If there are those among us who cannot offer such a personal commitment, who cannot do the job with spirit, who have lost that energy or, what is equally important, cannot treat with courtesy those who seek or need our help, then I hope that you and I can agree on one thing, on saying to those very few who undermine our reputation : "You are not one of us".

The Metropolitan Police has a reputation which is world-wide. Our Force is the mother of modern civil policing. It is not arrogant to say that no other Force in the world has the historical renown which attaches to the name of the Metropolitan Police. It is founded on fact and it is founded on integrity.

We have had our exceptions; they are not in any way typical; yet in this age of almost instant communication they cannot be kept in the cupboard. Moreover, these occasional lapses in police conduct can be portrayed, quite wrongly, as representative. They eat into our capital stock of public goodwill.

It is up to us to give the lie to those who will pounce on any fault

and ignore every virtue. We can do it in many ways, but above all in our manner and bearing in our daily work, and especially in our contacts with the public.

British policing remains policing by consent. We carry out our duty most effectively and most happily when we work within a consensus about what the police service should be and what it should do. In recent years there has been controversy on these questions; controversy not of our own making. On the question of police accountability the argument continues, but otherwise we are seeing a renewal of consensus.

At the heart of any consensus lies the principle of impartiality. We must continue to set our face against any discrimination between people according to race, colour, gender, wealth or social status. We should discriminate between people only according to their predilection for crime or disorder or, on the service side, according to their requirement for our assistance. As Karl Marx or Bakunin might have put it, "To each according to his needs." Marx, incidentally, wrote his books in London because only here could he find the freedom to do so.

We have seen crime move steadily up the agenda for national, social action. More social energy and concern is now being deployed in the struggle against it. In our efforts to reduce crime we can expect more sustained support, and also more critical attention.

Society, quite naturally, asks much of us. We are a 24 hours a day,

seven days a week, public service. We are the general managers of almost every form of emergency or crisis. Last week following the storms we answered more than 7,000 emergency calls in one day; over the past few months we have been looking after many hundreds of prisoners during the prison dispute. These examples partly illustrate the diversity of tasks which are performed in addition to the normal call of daily duty. But while the storms may have passed, the demands from the Prison Service crisis are still with us. I would like to put on record my appreciation for the first class way in which you have responded to the current problem; but the situation cannot be allowed to continue; if it does it will seriously threaten our ability adequately and properly to police London. The situation is a constant drain on our manpower, and will reduce the police coverage of the streets of the capital, and cannot be allowed to continue. Providing well over 300 police personnel a day in London alone to act as prison officers is neither a sensible nor a proper use of highly trained police officers.

The police service is not a special interest group or lobby; what we ask for, we do so in the public interest. When we call for change to the so-called right of silence, it is not simply to make our jobs easier for our own convenience. If the public wish to see more criminals brought to justice, it is our right, nay our duty, to say how it might be done and what devices presently impede that process.

Ending the right of silence means no more than enabling the judge in a case to point to the silence of the accused when questioned by the police as one factor among others to be taken into account by the jury

when weighing the issue of guilt or innocence. To see in this proposal a massive curtailment of civil liberties is transparently absurd. Indeed it is frivolous.

My purpose in arguing this case is to improve the chances of justice being done, in which cause the public has a weighty interest. Surely the court, and the public, have a right to hear the full story.

In the meantime I welcome the promise by the Home Secretary of new legislation on firearms and the carrying of knives in public places. ~~As a society~~ ~~We~~ are moving in the right direction.

I said at the beginning of my address that the weight of duty on the Metropolitan Police has been heavy and not widely enough appreciated, and that it is time it was. I shall do my best to publicise it and as necessary seek professional help to do so. The public has a right to know of the demands which are being made on its police service and of the daily acts of caring, of courage and compassion by its police officers. We must together ensure that the great goodness within this Force of ours is more widely known; so that the aberrations, and sadly they will still happen, cannot be portrayed as the norm. We can and must upturn the vicious propaganda of such malevolent publications as "Policing London" published by the London Strategic Policy Unit (whatever that is meant to be), but we shall only do it by breathing <u>real</u> life into those watchwords of the police service: professionalism, integrity, firmness, courage and courtesy.

Finally, Mr Chairman, it has been a privilege to address the meeting here this evening. When, as a country-boy, I joined this great Metropolitan Force many years ago, my mother took me off to church the night before I left my small town. I don't know if she was praying for me or for the people of London; but little did I think that I would one day have the enormous privilege, and the daunting responsibility, of being Commissioner of the Metropolitan Police.

But a lesson one learns very swiftly, and with much humility, is that I am but one member of this service. I can articulate the aims: professionalism, community co-operation, courage, integrity, firmness, understanding, service, courtesy; I can tell you they are the cornerstones of the Metropolitan Police; I can tell you, as I have already done, that I believe the Metropolitan Police should be the exemplar of modern policing - but only you can make it so.

Ladies and gentlemen, the future of this service of ours is in all our hands. Policing is not an easy task and anyone who thought it was is in the wrong profession. The public is immensely proud and trustful of its police; let us continue, with courtesy, but with firmness and with pride, to maintain that trust and provide the service which the public has rightly come to expect of us.

cc BG

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

7 August 1987

Dear Robin

Public Order in the Inner Cities

The Prime Minister has seen your Secretary of State's minute of 5 August, which she has noted without comment.

I am copying this letter to the Private Secretaries to members of E(UP) and Sir Robert Armstrong.

Yours ever

Mark Addison

(MARK ADDISON)

Robin Young, Esq.,
Department of the Environment.

CONFIDENTIAL

RBG

SECRETARY OF STATE FOR THE ENVIRONMENT

Prime Minister (2)

MEA 6/8

PRIME MINISTER

PUBLIC ORDER IN THE INNER CITIES

I have read with much interest Douglas Hurd's minute to you of 28 July. — at flags

Douglas speaks of the need to persuade responsible people in the community to exercise a moderating influence when disorder threatens. This is certainly a very important factor, not only in counteracting the more disorderly factions in the locality but more generally in encouraging greater confidence and self-reliance in these communities. The evidence that we have suggests strongly that programmes aimed at improving housing conditions and the local environment play a very significant part in helping to rebuild and stabilise this local confidence. "Welfarism" and short-term measures are not enough. The more responsible members of the community want to see evidence of a longer-term commitment to the regeneration of their neighbourhood. Without that there will be no encouragement to local residents to buy and improve their own home, or to local shopkeepers to continue trading. A good deal of my Department's housing and urban programme resources are directed at these objectives. We know from those most closely concerned, including local Chambers of Trade, and from detailed research evaluation, that this type of investment in the inner cities is greatly valued.

Douglas says (para 5) that poor housing in these areas does not appear to the police to have improved significantly "even in those areas such as Handsworth where there are special urban programmes". I cannot, of course, speak for the police but I believe that it was clearly shown at the time of the Handsworth riots that the more mature residents and householders, especially those in the areas where extensive housing improvements have been carried out, were appalled at what was happening and many spoke up strongly in defence of their neighbourhood. Rioting was confined

to the immediate vicinity of the Lozells Road, and did not spill over into those adjoining streets where a great deal has been done to improve the physical fabric and appearance of the area.

Of course there are still a great many council estates where a combination of municipal landlordism, incompetent management and poor maintenance, along with high unemployment and other factors, mean that confidence is very low and pride in the local neighbourhood non-existent. Our new housing policies are designed to tackle those problems, and will be backed up by urban progrmme resources. It will be a long haul, but I hope that the police will recognise that our efforts in this direction will help them in the very difficult situation that they face in developing better relations with these communities.

I am copying this to members of E(UP) and to Sir Robert Armsrong.

NR

5 August 1987

Home Affairs! Public order PT3

CONFIDENTIAL

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
Telephone (Direct dialling) 01-215)
GTN 215) 5147
(Switchboard) 01-215 7877

From the Chancellor of the Duchy of Lancaster and Minister of Trade and Industry

THE RT HON KENNETH CLARKE QC MP

Rt Hon Douglas Hurd CBE MP
Secretary of State
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

3 August 1987

Dear Secretary of State

PUBLIC ORDER IN THE INNER CITIES

Your minute of 28 July to the Prime Minister was a timely reminder of the issues which face urban policy in addressing the people who live in the inner cities.

I can confirm, from close contacts which the Government's 16 inner city Task Forces have with the police, that major efforts are being made by chief constables to build on their relationships with responsible people in their areas. It is also true that the police can only succeed in their task when local residents feel their prospects are improving and that they have a tangible stake in law and order.

As you and other colleagues know, the Task Forces are focusing on the themes of employment, employability and enterprise in their areas. They are working through on the relevant Government programmes to upgrade skills, focus training and employment opportunities on the needs of local firms, encourage new businesses to start up and grow. The emphasis, particularly in the dozen or more areas where ethnic minorities comprise a majority or very substantial minority of residents, is on building capacity amongst local people to take positive action themselves - to improve their chances of employment, to upgrade their skills and education, to

JY6ADK

participate in Britain's economic recovery. Your mention of the role of black churches is well taken. As you know, the Inner Cities Initiative is jointly funding "Evangelical Enterprise" which is developing the role of inner city church congregations in enterprise and training. I am sure we must keep the needs of the urban dwelling ethnic minorities very much in mind as we fashion and hone the policy response.

A crucial task, therefore, whose importance I know you share, is to target our measures more precisely on the inner city residents themselves. That means work on construction contracts, jobs in new factories, shops and offices, involvement in further and higher education. It is fairly clear that economic benefits from major investments do not 'trickle down' automatically to the most difficult groups - those that cause most problems for the Police. We have to work hard to ensure that people are motivated and equipped to compete effectively for the jobs which become available.

These measures need time to take effect, and we are working closely with the Home Office and with NACRO, APEX, the Police Foundation and others to improve community safety in the 16 Task Force areas and pursue other projects which combine crime prevention with job creation.

I am copying this to members of E(UP).

Yours sincerely

Nick Mitchell

pp KENNETH CLARKE

(Approved by the Chancellor and signed in his absence)

JY6ADK

HOME AFFAIRS

PUBLIC ORDER

PT 3

FLE
DA

CONFIDENTIAL

cc CO CST BG
LASO DHSS
SO CDL
DEJ DTM
DTI WO
DOE HO
LPO

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

29 July 1987

Dear Philip,

PUBLIC ORDER IN THE INNER CITIES

The Prime Minister was grateful for the Home Secretary's minute of 28 July about public order in the inner cities, which she noted without comment.

I am copying this letter to the Private Secretaries to members of E(UP) and to Trevor Woolley (Cabinet Office).

Yours,

David.

(D.R. NORGROVE)

Philip Mawer, Esq.,
Home Office.

CONFIDENTIAL

dr

CONFIDENTIAL

Prime Minister 2
DRS
28/7.

Prime Minister

PUBLIC ORDER IN THE INNER CITIES

My officials have recently consulted chief officers of police about the public order situation in the inner cities. You will wish to know the outcome.

2. The discussion of the prospects for disorder with inner city chief officers has happened each year since the 1981 riots. Inevitably the 1985 riots, where the level of violence directed against the police was greater than in 1981, shaped the views put forward by chief officers at last year's meeting. None of the inner city chief officers expressed any confidence at that time that the summer of 1986 would pass without a repetition of the 1985 riots. The year passed off without significant disorder and this owes a great deal to chief officers' sensible and effective policing of tense inner city areas.

3. The assessment this year is only slightly more optimistic. Although there is no hard intelligence of major disturbances this year, few chief officers are confident that the summer months will pass off without serious disorder. The Handsworth/Lozells area of Birmingham, the St Paul's area of Bristol and a number of different parts of London are the most likely places. The events at Chapeltown on 22/23 June show the continuing volatility of inner city areas. A relatively minor incident can quickly trigger disorder. The relatively successful containment of the Chapeltown disorder may illustrate one of the few grounds for encouragement emerging from chief officers' assessments: in some inner city areas there are signs of a better relationship of the police with the community and community leaders, which makes it possible for the police to persuade responsible people in the community to exercise a moderating influence when disorder threatens.

/4.

CONFIDENTIAL

4. A number of themes emerged from chief officers' assessments. In many urban areas traditional consensual policing is weak. Public order problems, traditionally the preserve of the inner cities, are spreading out to the suburbs and country towns. Since 1985, perceptions of what is a normal and acceptable level of disorder have shifted in some areas, notably the West Midlands; the level of day to day disorder is now at a pitch which would have been considered intolerable before 1985. In these areas the very idea of being policed is sometimes resented and resisted as much as individual acts of law enforcement. The police call this "slow riot": the police are attacked more often and more violently; individuals resist arrest and crowds try to free prisoners. As a result, in certain inner city areas of London, West Midlands and Merseyside, crime investigation and law enforcement operations which would be routine elsewhere can put public order at risk. A significant reserve of officers is needed in case disorder arises. This is particularly true in places like Notting Hill where police action has an impact on the lucrative trade in illicit drugs.

5. Against this general background, chief officers point to the potential for disorder:

(i) Inner cities

In many areas, the social and economic difficulties such as high unemployment and poor housing which have underpinned earlier rioting do not appear to the police to have improved significantly, even in those areas such as Handsworth where there are special urban programmes. Many of the areas where there is this type of social deprivation pose the greatest public order problems for police. In areas where there is policing with little or no consent, any incident in which there is a confrontation between the police and the community, whether it is a simple arrest as in Chapeltown or a death in police custody as in Wolverhampton earlier in the year, can turn into serious

/disorder.

disorder. This is particularly so in any friction between police and young blacks, the most likely single trigger for disorder. Whether the police can handle disorder by preventative measures such as securing through community leaders a lessening of tensions or whether they must instead rely on a show of strength depends to some extent on the state of police/community relations in the area. Disorder remains most likely in those areas where there are the traditional inner city problems, as well as a high level of criminality to which the police must respond, and where the relationship between police and community makes community mediation difficult. All the areas identified by chief officers as particular trouble-spots - Handsworth; St Paul's, Bristol; Brixton and North Peckham - have this combination of circumstances. On the positive side, efforts by the police to bring about better relations with the community appear to have borne fruit in some areas, notably the Railton Road area of Brixton, Chapeltown and Toxteth.

(ii) Yobbism; Gangs

There is some evidence that successful police action against football hooliganism has displaced the problem to city centres and housing estates. The disorder there takes the form of casual hooliganism and spontaneous low-level fights and disturbances. On a larger scale, the disorders at Lincoln over the New Year period were triggered by supporters of the local football team. Street crime and warfare between rival gangs are common in a number of inner city areas. In addition to tensions between Afro-Caribbean and Asian communities, trouble abroad can cause conflict between rival ethnic groups, particularly those from the Indian sub-continent. In London, and one or two other areas, there has been an increase in "steaming" - large scale gang raids on shops in broad daylight to steal goods, mostly clothing.

/(iii)

(iii) Weekend disorder

Sporadic alcohol-related disorder appears to have increased in some areas. Special planning is needed to prepare against trouble on Friday and Saturday after closing time in pubs and clubs. Drunken disorder can crop up anywhere and is largely unpredictable. Contingency arrangements for rapid response drain police resources, especially in rural areas.

Preparedness of forces

6. In the light of th is sobering assessment, the capacity and preparedness of the police to tackle disorder is crucial. Successive Home Secretaries since 1981 have taken action and encouraged chief officers of police to pay particular attention with HM Inspectors of Constabulary reinforcing this message in their annual force inspections. Following the 1985 riots, the Metropolitan Police and provincial forces carried out thorough reviews of their capacity to handle serious disorder. As a result, significant improvements have been made in force training, tactics, equipment and mobilisation arrangements. 18 forces now hold supplies of plastic baton rounds and 30 supplies of CS. Public order intelligence arrangements have been reviewed and we are considering with the Association of Chief Police Officers whether yet further improvements can be made. Chief officers judge that their forces are now better prepared than ever to tackle disorder as and when it arises.

Prevention: new inner city initiatives

7. There is no doubt that the most difficult areas to police and the ones where disorder is most likely are largely those where social and economic problems bite hardest. The police experience, and simple common sense, sugges that the converse is also true: "having a stake" in the community in terms of decent housing, job opportunities and good educational facilities gives

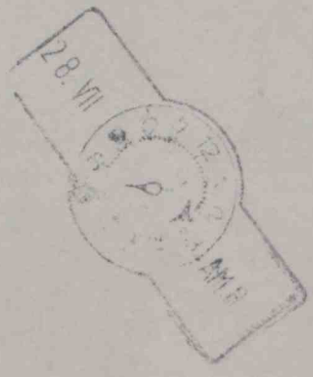
/people an

people an interest in ensuring that riots do not happen. The new initiatives on tackling the underlying problems of the inner cities offer us the opportunity to improve the lot both of the inner city dweller and consequently of the police who have to enforce the law and preserve the peace in those areas. The Home Office will, of course, be continuing to develop its preventive policies, and will also be contributing fully to the work of E(UP). In the meantime, I shall continue to emphasise the need for responsible organisations, for example the black churches, to co-operate with the police in the positive and constructive work they are doing to build bridges with the community in these difficult areas.

8. I am copying this to members of E(UP).

Douglas Hurd

28 July 1987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PRIME MINISTER

5 May 1987

PSB 6/5

LAW AND ORDER POLICY
NEIGHBOURHOOD WATCH PROBLEM

It is likely that our law and order policy will be criticised as flawed following a report that is to be announced on Thursday by the Home Secretary. Fortunately there is a good answer to it, but we need to take steps to make sure that our reply is given equal prominence.

Mr Trevor Bennett of the University of Cambridge Institute of Criminology has prepared a report for the Home Office Research and Planning Unit entitled "An Evaluation of Two Neighbourhood Watch Schemes in London". It comes to some damaging conclusions and was submitted to the Home Office on 25th March. Today it was decided that its publication can no longer be put off.

The report concludes that although Neighbourhood Watch Schemes alleviate fear of crime and represents good community co-ordination, there is no evidence in the two schemes covered in Acton and Wimbledon that there is any certainty that crime is reduced as a result of them.

There are now 29,500 Neighbourhood watch schemes throughout the country. They are one of the most helpful and exciting parts of our law and order policy and this report could not come at a worse time.

Our reply: This report only covers two schemes out of nearly 30,000. There is abundant evidence that many of the schemes are successful in reducing crime. Examples are given on the attached appendix. In any event the alleviation of fear of crime is a worthwhile end in itself. This is admitted by the report.

Hartley Booth.

HARTLEY BOOTH

Appendix

NEIGHBOURHOOD WATCH SCHEMES

1	Merseyside	Merseyside Police evaluation of their Home Watch scheme showed a reduction of burglary of 80% and a reduction in total crime of 50%.
2	Millfield Sunderland	A year after the Watch was launched, burglaries dropped from 96 in 1983 to 47 in 1984 and to just 23 in 1985. 1986 figures are not expected to be above this.
3	Werrington, Stoke on Trent	In 1985, 54 burglaries in a two-week period on one large estate. After Watch was launched same period in 1986 had only 3 break-ins, none of them at houses within the Watch scheme.
4	Washington New Town Northumbria	In 1985 the burglary rate was 20% over the divisional trend and rising. Watch set up and in July to September 1985 in Watch areas burglary dropped by 29%. Trend continued and in the same period in 1986, burglary rate had dropped by 83%.
5	Wycke, Bradford West Yorkshire	In one area of Wycke, burglary had dropped to 4 in the months of 1986 to September from 24 in the previous year against a force trend of 3.1% upwards. Auto crime is also down, thefts of motor vehicle down by 41% and thefts from motor vehicles down by 11%. Wycke area notable for close involvement of Special Constabulary in Neighbourhood Watch.
6	Ferry Lane Estate Tottenham	Burglaries for the six months preceding the scheme numbered 30 for the six months following the introduction of the scheme numbered 18 and for the last 6 months of 1986, there were no burglaries.
7	Davis Estate Chatham, Kent	In the two years following the introduction of Neighbourhood Watch, burglaries were reduced from 31 to 13 and overall crime reduced by 57%.
8	Wandsworth	1985: Neighbourhood Watch schemes 375; residential burglaries 4119. 1986: Neighbourhood Watch schemes 558; residential burglaries 3514 Overall reduction in burglary of 41%.

9 Raglan Estate, Devonport, Plymouth	All 170 households on the Naval estate participate. In the 4 months before the scheme started there were 17 burglaries; since the scheme was launched there have been none. Police report that petty crime on the estate has been drastically reduced.
10 Bradford	Bradford Police report a reduction of 75% in burglary in the area of one Neighbourhood Watch scheme covering 3500 dwellings.

FILE
DA

PRIME MINISTER

cc Mr. Sherbourne

LAW AND ORDER

The Opposition have had a bad week on law and order, and the Home Secretary will be making the point when he speaks in Greenwich soon.

The Opposition voted yesterday in Committee against Clause 29 of the Criminal Justice Bill. The Alliance spokesman (Alex Carlile) did so as well. Labour's proposal is for a weaker measure, along the lines of the Government's original proposal in the White Paper, for codifying the issuing of sentencing guidelines.

The Opposition also yesterday voted against Clause 30 which increases the maximum penalty for possession of a firearm while committing an offence to life imprisonment (though Gerry Bermingham abstained). The Alliance voted with the Government.

The Opposition once again voted against the renewal of the Prevention of Terrorism Act last night.

(MARK ADDISON)

11 February 1987
DCABSK

GCBG

noon

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From The Parliamentary Under-Secretary

29 September 1986

From Secretary of State

PUBLIC ORDER BILL: CRIMINAL TRESPASS

I refer to your letter of ~~22~~ 23rd September to Willie Whitelaw and your request for clearance of a proposed new clause to deal with aggravated trespass. As your office have already been informed, we have no objections to your tabling the clause.

The clause drafted reflects the view of H Committee that common land should be included in the land to which the new offence is to relate. The draft clause which you are tabling however will not I fear effectively ameliorate the deficiencies of the law as it presently applies to common land. The problem is that the power of direction available to the police is dependent upon among other things "occupiers" having first taken reasonable steps to ask trespassers to leave. While it is clear that the "occupier" will include the owner of the land, it will not embrace those who simply hold rights of common in respect of the land nor is it clear beyond doubt that where there is no known owner a local authority will by virtue of section 9 of the Commons Registration Act 1965 be regarded as "occupier".

Experience has shown that owners of common land may have no incentive to become involved with the removal of trespassers and I fear that the notion of "occupier" as defined may undermine the new clause's effectiveness as means of keeping commons free of the kind of problems encountered with the Peace Convoy last Summer. I hope that a way can be found to deal with these technical points and I have asked my officials to liaise with yours about any detailed points of concern.

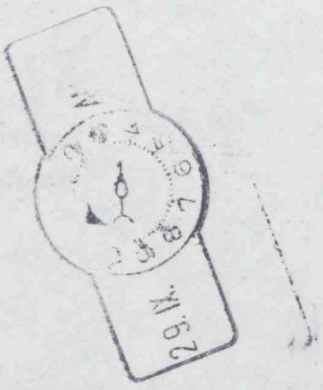
I am copying this letter to the Prime Minister, members of H and L Committees, the Minister of Agriculture and to Sir Robert Armstrong.

Yours sincerely

MARK ROBINSON
Approved by Mr Robinson
and signed in his absence

The Rt Hon Douglas Hurd MP
Home Secretary

HOME AFFAIRS Public Order PT3



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From The Parliamentary Under-Secretary

29 September 1986

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I am copying this letter to the Prime Minister, members of H and L Committees, the Minister of Agriculture and to Sir Robert Armstrong.

Yours sincerely

P. MARK ROBINSON
Approved by Mr Robinson
and signed in his absence

The Rt Hon Douglas Hurd MP
Home Secretary

10 DOWNING STREET

PAB / Yes.

Re. Home Sec. to LPC 22.9.86 (cat Hap).

Home Office want to know if the PM has any comments. Shall I tell them we are content?

done

G.4
24/9

nbpm

DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

OUR REF : JM/PSO/11708/86

The Rt Hon Douglas Hurd MP
Secretary of State for the
Home Department
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

23 September 1986

Dear Douglas.

Thank you for copying to me your letter of 22 September to Willie Whitelaw and the new clause to empower the police to take action against aggravated trespass on public and private land.

You know my views on the value of extending the scope of the clause to include highway land. Having said that, the clause faithfully reflects the discussion and decision at H and I have no objection in principle to it being tabled. My officials have already been in touch with yours about some points of detail which your officials will examine with your legal advisers.

Copies of this letter go to the Prime Minister, the Lord President of the Council, the Lord Privy Seal, Members of H and L Committee, the Minister for Agriculture and Sir Robert Armstrong.

Yours ever
John

JOHN MOORE

HOME AFFAIRS Public Order PT3

nbpm ccBG

QUEEN ANNE'S GATE LONDON SW1H 9AT

22 September 1986

Dear Willie.

PUBLIC ORDER BILL: CRIMINAL TRESPASS

I attach a new clause to deal with aggravated trespass. It corresponds closely to the elements set out in my letter of 25 July to Nicholas Ridley as clarified by our useful discussion at H last Tuesday and extended, as we agreed then, to common land.

There is one additional point. We need to stop trespassers re-entering land shortly after they have left it in compliance with a police direction to leave. We do not want them playing a cat and mouse game with the police in this way. I propose to deal with this by making it an offence to re-enter the land within three months.

H was anxious that the new clause should be tabled in time to be debated during the Committee Stage of the Public Order Bill on 6 October. It will be controversial. I should like to table the clause as soon as possible in order to ward off some of the criticism we shall undoubtedly face about the lack of time for consideration. I would therefore like to table the new clause on Friday of this week (26 September) if at all possible.

It would be most helpful to have clearance to table the clause, subject to any necessary technical adjustments of a drafting nature, from colleagues on H and L Committees within 48 hours. I am sorry to ask for such an immediate response; but I hope colleagues will agree we have already fully discussed the major aspects of the clause, and that it contains no surprises.

Copies of this letter go to the Prime Minister, the Lord Privy Seal, Members of H and L Committees, the Minister for Agriculture, the Secretary of State for Transport and Sir Robert Armstrong.

Yours,
Douglas.

The Rt Hon Viscount Whitelaw, CH, MC

PUBLIC ORDER BILL

AMENDMENTS

TO BE MOVED IN COMMITTEE

BY THE LORD GLENARTHUR

Before Clause 33

Insert the following new Clause--

("Power to direct trespassers to leave land.

.-(1) If the senior police officer reasonably believes that two or more persons have entered land as trespassers and are present there with the common purpose of residing there for any period, that reasonable steps have been taken by or on behalf of the occupier to ask them to leave and-

(a) that any of those persons has caused damage to property on the land or used threatening, abusive or insulting words or behaviour towards the occupier, a member of his family or an employee or agent of his, or

(b) that those persons have between them brought twelve or more vehicles onto the land,

he may direct those persons, or any of them, to leave the land.

(2) If a person knowing that such a direction has been given which applies to him-

(a) fails without reasonable excuse to leave the land as soon as reasonably practicable, or

(b) having left again enters the land as a trespasser, without reasonable excuse, within the period of three months beginning with the day on which the direction was given,

he commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale, or both.

(3) A constable in uniform who reasonably suspects that a person is committing an offence under this section may arrest him without warrant.

(4) In proceedings for an offence under this section it is a defence for the accused to show that his original entry on the land was not as a trespasser.

(5) In this section-

"land" does not include buildings or land forming part of a highway;

"occupier" means the person entitled to possession of the land by virtue of an estate or interest held by him;

"property" means property within the meaning of section 10(1) of the Criminal Damage Act 1971;

"senior police officer" means the most senior in rank of the police officers present at the scene;

"vehicle" includes a caravan as defined in section 29(1) of the Caravan Sites and Control of Development Act 1960.")

In the Title

34/48 Line 7, after ("events") insert ("to confer power to direct certain trespassers to leave land;")

Home Aff Public Order
PT3.

n6pm N/T CC86

SECRETARY OF STATE FOR THE ENVIRONMENT

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

The Rt Hon Douglas Hurd CBE MP
Home Office
Queen Anne's Gate
LONDON
SW1

11 September 1986

Dear Douglas

I am responding to your letter of ~~27~~ attag. August to Nicholas Edwards about the Public Order Bill and the Peace Convoy of which you sent me a copy.

I agree with your views in relation to highways and I am anxious that we should not make it any easier for highway authorities to evict gypsies from their land unless they have obtained designation which gives them the extra powers of control in the Caravan Sites Act 1968.

As regards commons, the case for including them in the new powers which you propose is strong since they probably offer the kind of site that the Peace Convoy is seeking. But there may be difficulty, as the Police have suggested, in identifying the owner or occupier. The Caravan Sites and Control of Development Act 1960, however, enables district councils to make orders prohibiting the stationing of caravans for habitation on some common land, and Section 193(4) of the Law of Property Act 1925 makes it a criminal offence inter alia to do so on certain other common land. There may therefore be no need to bring commons within the scope of the new provisions. On the other hand, if you were persuaded that it was desirable, it need not, in view of the provisions already in existence, greatly change the situation as far as gypsies are concerned.

I am copying this to those to whom you copied your letter, as well as to Nicholas Edwards.

Yours ever

Nicholas

NICHOLAS RIDLEY

This is 100% recycled paper

HOME AFFAIRS Public Order PT3

nbpm CC/a

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From The Secretary of State for Wales

The Rt Hon Nicholas Edwards MP

8 September 1986

Dear Douglas

Thank you for your letter of 27 August about the proposed new offence of criminal trespass. I am afraid that I cannot accept your view on the exclusion of commons and highways land from the new provision.

You suggest that a provision which would cover commons would involve the police in disputes about who is the owner or occupier. I do not see that this has to be so. The ownership of most common land is registered and generally it should be no more difficult to establish the ownership of commons than of other land. There may be some areas of commons with no known owner and there may be difficulty over establishing who is an occupier of common land. But I would have thought it possible in such cases to provide for the request for trespassers to leave - if the legislation is to require this - to be made by an appropriate local authority. This might make the legislation slightly more complex but hardly amounts to a strong argument for excluding common land altogether given the very strong arguments that I feel there are for inclusion.

The degree of damage to property or harassment to members of the public caused by the activities of some hippies and the like on highway land in Wales has been considerable in at least one recent instance and certainly has been such as to lead public authorities and me to seek more effective ways of dealing quickly with the problems which arise.

I do not see that Clause 14 is likely to help much on common or highway land. The cases which cause trouble do not always reach the peak of this Summer's Peace convoy disturbances but even so are extremely troublesome. How often in such instances could Clause 14 be used by the police? Very rarely I imagine. Indeed one of the reasons which led us to reject the extension of Clause 14 to private land was its likely inefficacy in the majority of cases to which the new trespass provision is intended to apply.

/There is ...

The Rt Hon Douglas Hurd CBE MP
Home Secretary

HOMG AFFAIRS : Public Order PT3

There is the further point that Clause 14 could not seem to apply to some 75 per cent of common land in Wales which is not subject to statutory public access. It is not public land in any sense and it seems very unlikely that it would be subject to the provisions of Clause 14. If all other private land is protected by the new criminal trespass provision, very large areas of privately owned common land in Wales would become even more vulnerable to trespass and would be in a limbo in which Clause 14 would not be likely to be useable and criminal trespass law would not apply.

As I indicated in my letter of 12 August I would find it extremely difficult to defend the exclusion of common land and highways from the new provisions and I do not feel that the arguments which you advance will be very convincing to public authorities and the members of the public concerned about the problems which hippies cause us. If you continue to feel unable to accept my views, I must therefore press for further discussion of them in H. I agree of course that such discussion must take place very soon.

I am copying this to Peter Bottomley. Copies also go to the Prime Minister, members of H Committee, the Attorney General, the Minister of Agriculture, and Sir Robert Armstrong.

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SW1H 9AT

27 August 1986

Dear Secretary of State,

Thank you for your letter of 12 August about the new offence which we propose to introduce in the Public Order Bill to deal with the problems presented by the Peace Convoy. Peter Bottomley also wrote on 7 August to express his concern about the proposed exclusion of highways from the scope of the offence.

I acknowledge that at the time of my letter to Willie Whitelaw of 20 June I was thinking of a provision which would extend to public as well as private land. This would, no doubt, have caught commons and highways. But on further consideration I see a number of difficulties about this. The police want a workable provision. They do not want an offence which involves them in disputes about who is the owner or occupier (which might well be the case with common land).

So far as highway verges and lay-bys are concerned, I cannot see that the problem is of the same order as that which confronted Mr Attwell. The element of damage does not arise, at least not to the same degree. Nor is there the same element of harassment or intimidation of a member of the public. Moreover, extending our proposed offence to catch highway verges and lay-bys would make life very much more difficult for the genuine gypsies, and would increase opposition from that quarter.

In any event, I think we need to bear in mind that clause 14 of the Public Order Bill already extends the powers of the police to deal with assemblies of 20 or more people in public places. The definition of public place expressly includes any highway, and also extends to any place to which the public or any section of the public has access (which should include commons). Clause 14 gives the police power to impose conditions on the people organising or participating in an assembly in such a place, whenever they apprehend serious public disorder, serious damage to property, serious disruption to the life of the community, or whether the purpose of the people organising it is to intimidate others. These powers will strengthen the position of the police in dealing with groups which congretate on highway land or commons. I am not convinced that a further extension of police powers in respect of such places is necessary.

The gap in the law which we identified, following the case of Mr Attwell, was in relation to private land. In my letter of 20 June I explained the difficulties of extending clause 14 to

/private land

The Rt Hon Nicholas Edwards, MP

private land, and H Committee agreed that this should not be done. But of course clause 14 will be available in respect of any relevant assemblies which fall within its scope.

In formulating our new offence I must remember that we have to get it through both Houses in very little time. Any offence which touches on trespass is likely to be controversial, and the gypsy and countryside interests are keeping a close eye on our plans. My approach is therefore to concentrate on the main mischief, as demonstrated in the Attwell case, and to provide the police with a workable and effective provision. I believe that the inclusion of commons and highways would complicate the drafting and increase opposition from the gypsy and caravan lobbies.

In view of this, and in view of the remedy already to be provided by clause 14, I very much hope you will agree not to press your concern, but if it is necessary to have a discussion in H, I hope that this can take place as soon as possible. Parliamentary Counsel is working on a draft which I hope to circulate shortly for H and L clearance. In order to ease the handling problems I should like to announce details of the proposed new offence before the House of Lords resumes.

I am copying this to Peter Bottomley. Copies also go to the Prime Minister, members of H Committee, the Attorney General, the Minister for Agriculture and Sir Robert Armstrong.

yours sincerely

C Pollock

(Approved by the Home Secretary and signed in his absence.)

H. AFFAIRS

PUBLIC ORDER

P 7 3

CT/2102/86.

Y SWYDDFA GYMREIG
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel. 01-233 3000 (Switsfwrdd)
01-233 6106(Llinell Union)
Oddi wrth Ysgrifennydd Gwladol Cymru

WELSH OFFICE
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel. 01-233 3000 (Switchboard)
01-233 6106 (Direct Line)
From The Secretary of State for Wales

The Rt Hon Nicholas Edwards MP

12. August 1986

cc. PS/Russ(W)
PS/Russ(M).
PS/Pemgc.
M. J.H. Lightman.
M. J.W. Preston.
M. A.J. Beale.
M. O. Rees.
M. G. Mercer.
M. J.C. Lewis
M. Spackman
CDC.

Dear Douglas

CRIMINAL TRESPASS: HIPPIES AND GYPSIES

I have seen copies of Nicholas Ridley's letters to you dated 15 and 23 July and your reply of 25 July about the difficulties which might be caused by the new criminal trespass provision for our policies on gypsies.

I note that you do not feel able to accept the suggestions put forward by Nicholas Ridley. I must say that I share his views and his misgivings about the effect of the new provision on our policies for gypsies. As well as possibly cutting across our policy of not needlessly moving from place to place gypsies who have no authorised site on which to stay, the provisions, as proposed, could adversely affect the established policy of providing gypsy sites. There is already a reluctance on the part of County Councils in Wales to carry out their statutory duty under the Caravan Sites Act 1968 to provide gypsy sites. Indeed, I was, earlier this year, obliged to issue a direction to a county council in Wales requiring them to provide sites.

Even more importantly however, I am greatly concerned at your proposed exclusion of common land and highways land from the scope of the new provision. Many of if not most of the problems with hippies in Wales have involved the invasion of common land. Experience has shown that it can be more difficult to secure the eviction of trespassers from commons because the owner - who may derive little benefit from the land - is generally reluctant to go to the expense of seeking a possession order.

Although they may be subject to commons rights, and in some cases to a right of public access, commons are nevertheless largely in private ownership. If other land is to be given the protection of the new provision then the 500,000 acres of common land in Wales will become even more vulnerable to trespass. I am convinced therefore that exclusion of common land will be strongly criticised in the Principality and I have to say that I would find it extremely difficult to defend that exclusion.

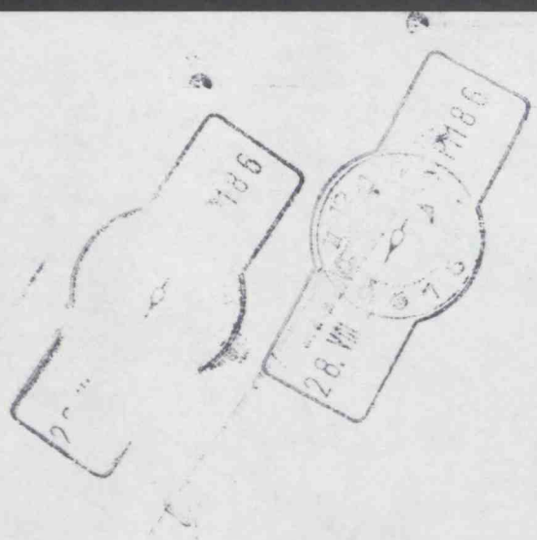
/As to

The Rt Hon Douglas Hurd CBE MP
Home Office
Queen Anne's Gate
LONDON SW1

As to highways land, in my letter to you of 17 February 1984 (which was included in my Department's note attached to Sir Robert Armstrong's minute to the Prime Minister of 13 June), I drew attention to the difficulty we had encountered in dealing with a group of people known as 'Mutants'. This group after occupying various sites near Haverfordwest, one of which was on common land, camped (in converted buses, vans etc) on highway land in a lay-by off the A40 trunk road. In the end the situation was resolved satisfactorily by means of court injunctions but it took a very long time to achieve that result. There is little doubt that a criminal trespass provision applying to private (including common) and highway land would have enabled us to deal with a very difficult situation much more quickly.

I hope therefore you will agree to extend the provision to both common and highway land. If you feel unable to do so I think we shall have to discuss the matter collectively in H Committee.

I am copying this letter to other members of H Committee and to Sir Robert Armstrong.



HARRIS

PUBLIC ORDER

PTJ

SECRETARY OF STATE FOR THE ENVIRONMENT

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

The Rt Hon Douglas Hurd CBE MP
Home Office
Queen Anne's Gate
LONDON
SW1

11 August 1986

Dear Douglas

CRIMINAL TRESPASS: HIPPIES AND GYPSIES

Thank you for your letter of 25 July about the new criminal trespass provision.

I understand the difficulty that you have had in finding any satisfactory means of excluding gypsies, as far as is practicable, from the scope of the proposed specific offence - which is what H Committee wanted. It seems quite clear that there is nothing in the provisions you now propose which will have that effect. The reference to actual rather than potential damage will be of little avail since it is hardly possible to enter land without causing some damage in the legal sense. Nor will the reference to the number of vehicles provide any assistance since that is proposed as a separate test and will not prevent a charge being brought against a smaller group if it can be said to have caused any damage in occupying the land.

As you say, it will be necessary to rely on the Police exercising their discretion in the way they apply the new provisions. But those provisions are now so widely drawn that the Police are bound to come under frequent pressure to use them and it may be difficult for them to refuse to do so. They can be asked to act not only by the owner of the land but by any person or by the local authority. Similarly the wide availability of the new power will greatly detract from the effectiveness of the Caravan Sites Act regime, which is intended to provide an incentive to local authorities to ensure that adequate authorised sites are available. As a result, I will be pressed to initiate action to require local authorities to make suitable sites available. In short, the problem of providing for gypsies will not go away and is likely to cause us more trouble in future.

In view of the careful consideration that you have given to this matter, and the need to get on with drafting the new provisions, I do not think that it should be referred back to H Committee colleagues but I am copying this letter to them, and to the Prime Minister and others to whom your letter was copied, so that they may be aware of the difficulty that persists.

Yours ever
Nicholas

NICHOLAS RIDLEY

CC BG

DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB
01-212 3434

MINISTER
FOR ROADS AND TRAFFIC

My ref:

Your ref:

WSBM

The Rt Hon Douglas Hurd CBE MP
Secretary of State at the
Home Office
50 Queen Anne's Gate
London
SW1H 9AT

7 August 1986

Dear Douglas

CRIMINAL TRESPASS: HIPPIES AND GYPSIES

You wrote to Nicholas Ridley on 25 July outlining the new criminal trespass provisions which you proposed. We have now had a closer look at these. In John Moore's absence on holiday I am writing to convey our view. We are in broad agreement with what you propose, but are seriously concerned about the proposal to exclude highways from the scope of the new provisions.

As you might expect, we have had a fairly long experience of the problems of dealing with people who decide to squat or carry out unauthorised activities on land forming part of the carriageway or verges of roads, or laybys adjacent to them. Although there are statutory powers in sections 143 and 148 of the Highways Act 1980 to deal with obstructions, the first is concerned with removal of structures and is subject to a period of notice which makes it useless for moving on "travellers" and the second attracts such a small fine as scarcely to be a deterrent to those who may have no intention of paying the fine anyway. While it is possible to resort to Order 24 in the County Court Rules 1981, the procedure involved is time consuming and expensive. Moreover there is always the risk with people of this kind that they simply move to another place whence they cannot be further moved without further resort to legal action.

I appreciate that your desire to exclude highway land may reflect the fact that the primary concern throughout has been with the difficulties of clearing "travellers" off private land, and those "travellers" have so far been successfully kept on the move by the police when they have once more joined the public highway.

It seems to us that with the strengthening of the law relating to mass trespass on private land, it is very likely in the future that "travellers" will resort to camping on highways land. Main roads often have substantial areas of verge land or layby which could be occupied in this way for a long time. We really would look silly if the effect of the new provisions was simply to transfer the problem to a more public and conspicuous place.

We therefore very much hope you will reconsider your proposal to exclude highways from the proposed provisions.

Copies of this letter go to members of H Committee, the Prime Minister, the Attorney General, the Minister for Agriculture, and Sir Robert Armstrong.

Yours ever

Peter

PETER BOTTOMLEY

HONG AFFAIRS Public Order PT 3

CC(86)

Ministry of Agriculture, Fisheries and Food
Whitehall Place London SW1A 2HH

From the Minister's Private Office

RESTRICTED

Miss J MacNaughton
Private Secretary to the Lord President
of the Council
Lord President's Office
68 Whitehall
SW1A 2AT

MBM

5 August 1986

Dear Joan,

"TRAVELLERS"

On 26 June H Committee considered measures that might be taken to prevent trouble of the kind recently caused by the so-called Peace Convoy in the South of England. attached

It was agreed, inter alia, that there would be merit in disseminating a note advising farmers and landowners of the best ways of exploiting the existing civil law to rid themselves of actual or threatened trespassers. However, it was noted that the National Farmers' Union (NFU) and the Country Landowners' Association (CLA) appeared unwilling to distribute this note in its present form. My Minister was therefore asked, in consultation with the Lord Chancellor and the Attorney General, to investigate their objections and to see whether they could be overcome.

Following further consultations with all concerned, it has been agreed, subject to formal confirmation from the NFU and CLA, that MAFF should issue the enclosed guidance note and that the NFU and CLA and possibly the Tenant Farmers' Association and the Farmers' Union of Wales should make it available to their members. We would also put out the attached Press Notice.

Unless you see any objection we shall seek the formal endorsement of the farming organisations with a view to an agreed announcement next week.

I am copying this letter to the Private Secretaries to the Prime Minister, to the members of H Committee, to the Attorney General and to Sir Robert Armstrong. I should be grateful for any comments by 7 August.

Yours sincerely,

Elizabeth Morris

MRS E M MORRIS
Private Secretary

MINISTRY OF AGRICULTURE, FISHERIES AND FOOD

TRESPASS

Advice for Farmers and Landowners

1. This is a note for farmers, landowners and other occupiers of land who are faced with likely trespass, or actual trespass, on their land. It is meant to help you understand the court procedures you can use to prevent the trespass or to get your land back.

Important advice

2. (1) Consult a solicitor as quickly as possible. You should find out how to contact your solicitor outside office hours.

(2) Do not use force.

Although the law permits reasonable force to be used to remove trespassers, you are strongly advised not to use any force. Use of excessive force could result in civil or criminal proceedings being taken against you.

(3) If there is a likelihood of disorder, inform the police.

What to do before trespassers arrive

3. You should always have ready an accurate, up-to-date map of all the land you occupy, and copies of any tenancy or grazing agreements, for any legal proceedings.

4. You may take reasonable steps to prevent entry by trespasse onto your land by blocking the entrances to fields, but you must take care not to obstruct any rights of way.

Injunction to prevent trespass

5. If you know the names of the likely trespassers and can prove that they intend to trespass on your land you may apply to the county court or the High Court for an injunction to prevent the trespa from taking place. Where you have reason to believe that travelling groups are likely to congregate in your area it may be advisable for you, together with neighbouring land owners, to take steps to identif the names of the potential trespassers, and where they are, so that they can be served with your application. Concerted action of this kind is particularly useful where trespassers are evicted from one piece of land in the area and try to find an alternative nearby site. However, because you have to know the names of the trespassers and

ove that they intend to trespass on your land, you must be very sure of your case before you start proceedings for an injunction.

What to do when a trespass has taken place

Proceedings for possession

6. You may take proceedings to recover possession of your land. There is a special expedited procedure to help you and it is not essential for you to know the names of the trespassers. You may take proceedings (1) in the High Court, at your local district registry, (2) in the High Court at the Royal Courts of Justice in London, or (3) in your local county court. Your solicitor will advise you which court is most appropriate to your case. These notes tell you what court fees you will have to pay; there will also be your solicitor's costs.

High Court

7. There is a special form of application for beginning possession proceedings in the High Court, Form 11A. The fee for issuing proceedings is £60. A date will be fixed for the hearing. Normally there must be at least five days (excluding weekends and public holidays) between the date on which your application is served on the trespassers and the date of hearing, but if the case is urgent you may apply to the judge to shorten the period.

8. You must have your evidence in support of your case ready to be served with the application. It must be an affidavit, a statement sworn by you before a solicitor or a court officer, and it should state

(a) your rights to the land,

(b) the circumstances of the trespass,

(c) that you do not know the names of the trespassers, where this is the case, or the circumstances in which you do know names,

(d) that you have asked the trespassers to leave, and

(e) why the case is urgent, if you believe it is.

Your application must give the names of any trespassers that you know.

9. Your application and affidavit must then be served on the trespassers. Your solicitor will arrange this; if there is a likelihood of disorder he should tell the police so that they have an opportunity to be present when the documents are served. Named defendants must be served personally, unnamed defendants by fixing a sealed copy of the application and affidavit to some conspicuous part of your land. If there are named defendants and you are unable to serve them personally, you must apply to the court for special directions as to service. It may also be advisable to seek special directions from the court if you are in any doubt as to how service should be effected. You must prepare a affidavit of service, explaining in detail how service was effected. To serve documents on a Sunday you need the leave of the court.

10. At the hearing, if the court agrees that the trespassers have no right to be on your land it will make an order for possession, normally for possession forthwith. The order will be in Form 42A. As soon as the order has been made you should ask the court office for a writ of possession (fee £6). The writ should be delivered to the under-sheriff in whose area the land is (his name and address is in the Solicitors' Directory and Diary; all under-sheriffs also have deputies in London). His officers will carry out the enforcement; where there is a large number of trespassers and police help is needed, this may not be possible immediately. Your solicitor should contact the under-sheriff when the proceedings begin, to give him advance warning that he will be required to enforce a writ. A fee is payable to the under-sheriff for enforcement, as well as his charges, depending on the number of men and amount of equipment he needs.

<u>County Court</u>

11. The procedure in the County Court is almost identical, except that -

(1) the application is in County Court Form N312; you will be shown the form to fill in if your solicitor does not have one;

(2) the fee is £30;

(3) the five day period (see paragraph 8) includes weekends and public holidays; and

(4) there is a court bailiff, who may serve the summons instead of your solicitor doing it; he will also be responsible for enforcing the warrant of possession (fee £25).

What if it is outside court hours?

12. If the trespass takes place at the weekend or at some other time when the court is closed there are urgent business officers in each of the six legal regions of the country (your solicitor will know which region you are in). In all six the police have the telephone number of the officer and on the Midland and Oxford, Wales and Chester and South Eastern Circuits the local law society also has it. On the Western Circuit the Chief Clerk of the county court is usually the person to contact. The urgent business officer will be able to assist in an urgent application to a judge, if necessary. Similar arrangements can be made for the High Court at the Royal Courts of Justice in London (01-936 6000), which will put you in touch with a court official.

Criminal Law

13. This note is concerned with civil law procedures, because trespass is not itself a crime. But if the trespassers commit criminal offences such as criminal damage, threatening behaviour or an assault you should call the police.

PRESS RELEASE

[Joint Announcement by the Agriculture Departments in England and Wales]

1986

TRESPASS: GOVERNMENT ISSUES LEGAL ADVICE TO FARMERS

The Government is today issuing a guidance note on the civil law for farmers and landowners faced with mass trespasses on their land.

The note is designed to help farmers to make the best use of the civil procedures available to them when faced with such a trespass, either to prevent it or to regain possession of their land. The advice covers the action required before the trespassers arrive, application for a County or High Court injunction to prevent the trespass; and proceedings to recover possession in the High Court or County Court.

Copies are available from the Ministry's Regional and Divisional offices and the Welsh Office Agriculture Department at Aberystwyth. Members of the County Landowners' Association, the National Farmers' Union, the Farmers' Union of Wales and the Tenant Farmers' Association can also obtain copies from their local offices.

Notes for Editors

At present, trespass is not a criminal offence. The Government is considering what, if any, legislative changes should be introduced to tackle this problem. Press enquiries about this should be directed to the Home Office press office on 01-213-3030.

05. MAR
PM 3 E

file

DSG

bc: Prof. Griffiths.

10 DOWNING STREET

From the Private Secretary

28 July 1986

Dear Stephen,

Thank you for your letter of 24 July to Mark Addison about the progress made on improving arrangements for identifying and obtaining evidence against rioters in the inner cities. The Prime Minister was very grateful for this account which she found most interesting.

Yours ever,

Timothy

Timothy Flesher

Stephen Boys Smith, Esq.,
Home Office.

DSG

QUEEN ANNE'S GATE LONDON SW1H 9AT

25 July 1986

Dear Secretary of State

CRIMINAL TRESPASS: HIPPIES AND GYPSIES

Thank you for your letters of 15 and 23 July about the new criminal trespass provision, and how we might best avoid causing difficulties for your policies on gypsies.

Since our discussion at H on 26 June we have been giving further thought to the elements of a new police power to evict trespassers, and I know that my officials have been keeping in close touch with yours as our thinking has developed. We have also been forced to show our hand rather earlier than we would otherwise have wished by amendments moved in Committee in the House of Lords on the Public Order Bill. The debate showed that there was strong support for firmer action to deal with the hippy problem, and a general welcome for the Government's initiative. In trailing our proposals Simon Glenarthur made it clear that our ideas were still developing, and that the precise elements were all subject to revision.

Indeed it was not until the day after the debate that I was able to discuss your letter of 15 July with Ministerial colleagues here. Following that discussion we have revised slightly the elements in the proposed new police power: attached to this letter is an annex setting out the revised elements which I propose should now form the basis of our Instructions to Counsel. It is not substantially different from the proposal circulated with my letter of 20 June: but we have recast the provision in terms of a common core of four elements (1(a)-(d)) about which the police must be satisfied in every case, and then three extra elements (1(e)-(g)), each of which will be separately capable of triggering the police power to evict.

In formulating these extra elements we gave careful thought to the points made in your letter. We were also mindful of the need to formulate a provision which would be workable in the hands of the police, who have already expressed concern at its growing complexity. They were not initially keen on a test based on numbers of vehicles; but following your first letter, and in the light of the support for the idea shown in the Lords, I was prepared to agree that one of the new elements triggering the police power to evict should be trespass with 12 or more vehicles. But, despite the arguments in your second letter, I

/have not felt

The Rt Hon Nicholas Ridley, MP

have not felt able to make this a requirement which must apply in every case. I cannot myself accept, nor do I believe our own supporters would understand, why groups of fewer than 12 vehicles should be immune from police action; and I still believe it would be unduly open to avoidance. We should look silly if the Peace Convoy could get around the new provision simply by breaking into smaller groups.

Nor have I felt able to adopt your suggestion that the test of damage (1(e)) should be raised to serious damage. I recognise that many groups of gypsies do cause minor damage, as indeed do some campers and caravanners; and we shall have to look to the good sense of the police not to act in trivial cases. But during the passage of the Public Order Bill we have consistently said, in resisting the proposal to extend clause 14, that serious damage is too high a threshold; and I am afraid we have to face the fact that, if we pitch this element too high, the provision may fail to achieve the object for which it is intended. But what I have done is to restrict this element to a requirement of damage actually caused, instead of the risk of possible damage at some time in the future. I also hope that the new test of trespass with 12 or more vehicles may help to give the police the flavour of the level of damage which we have in mind. I hope these changes will help you.

The police are no more keen to catch gypsies than we are. They are broadly content with the proposed provisions and their initial reaction is that it should not make it too difficult for them to resist local pressure to harass gypsies, except when they are in large numbers or commit damage or behave in an intimidating fashion - in which case they should be subject to the power of eviction like anyone else. I believe that, taken as a whole, the new provision does offer considerable protection for gypsies. We have excluded common land and highways, so that gypsies camped on wasteland and grass verges will be outside its scope; and gypsies on unauthorised sites should have nothing to fear so long as they do not cause damage, and do not use threats, abuse or insults towards the occupier. I do not believe that this is too much to ask of gypsies who are trespassing against the wishes of the occupier. What we really cannot do is come up with a provision which is both effective and draws any clear distinction between gypsies and the Peace Convoy.

Given the shortage of time and the need to get on with drafting a provision, I am afraid we must send off the Instructions to Counsel next week. If you feel the need for further collective discussion, we can of course return to the matter at H in September; but I would not wish to delay the drafting process.

Copies of this letter go to members of H Committee, the Prime Minister, the Attorney General, the Minister for Agriculture, the Secretary of State for Transport and Sir Robert Armstrong.

Yours sincerely

(Approved by the Home Secretary & signed in his absence)

Elements of a new police power

1. Where the police reasonably believe that

(a) trespassers have entered without lawful authority;

(b) onto any land (excluding commons and highways, and all buildings);

(c) with the intention of residing for a period;

(d) and have refused to leave on request;

and

(e) the trespassers have caused damage to property;

or

(f) one or more of the trespassers have used threatening, abusive or insulting behaviour towards the lawful occupier or his servants or agents;

or

(g) the trespassers are on the land with 12 or more vehicles (including caravans).

2. The police may direct any trespasser to quit the land.

3. Refusal to obey a police direction within a reasonable period to be an offence triable summarily with a maximum penalty of three months' imprisonment and/or a fine of £1,000.

4. The police may arrest without warrant any person committing an offence.

Review of law on Public Order: HOME AFFAIRS

PRIME MINISTER

25 July 1986

RIOT - EVIDENCE

Following your request for information on progress towards better evidence gathering, the Home Office have produced a useful summary of work done and in hand. This includes better deployment of CID officers among rioters improved flood lighting and more use of mobile photographic equipment.

The Home Office note riot conviction percentages, which vary between 73% at Brixton and 93% at Handsworth, a variation which we regard as a little curious.

The one outstanding matter, following your interest in new scientific improvements in evidence collection, is new methods of computerising photographs of convicted criminals. We have written to the Home Office concerning this.

HB.

HARTLEY BOOTH

Chron. file

10 DOWNING STREET
LONDON SW1A 2AA

Stephen Boys Smith Esq
Principal Private Secretary
Home Office
50 Queen Anne's Gate
LONDON
SW1

25 July 1986

Dear Stephen,

Following your helpful letter of 24 July, setting out the progress being made to improve evidence gathering techniques in the event of a riot, one matter remains.

In Autumn 1984, during the NUM strike, it was reported that some work had been done on the computer science of putting photographic identification into computers. We were told that the FBI had developed a useful device. Is any work being carried out here to surmount the difficulties of mechanically matching photographs with photographs stored in a computer memory of, for example, convicted persons? We would be grateful for any information you have.

Yours sincerely

Hartley

HARTLEY BOOTH

From: THE PRIVATE SECRETARY

CCAS

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SWIH 9AT

24 July 1986

Prime Minister:
See also Policy Unit note attached.
An interesting note for the Home Office.

Dear Mark,

Thank you for your letter of 20 June. The Prime Minister asked for:

(a) a report on the progress made to improve arrangements for identifying, and obtaining evidence against, rioters in the event of trouble; and

(b) a rather fuller account of what steps are being taken to improve the underlying situation in the inner cities and for advice on whether there are any other steps which ought also to be taken.

This letter responds to the first request. The second is being pursued separately; there was a discussion at EA on 21 July.

After the 1981 riots the police service gave considerable thought to the problems of identifying and prosecuting those involved in rioting. The Tactical Options Manual, drawn up by the Association of Chief Police Officers (ACPO) and issued to Chief Constables in 1983, emphasises the importance of evidence gathering and the involvement of the CID. Among the procedures recommended to police forces are the systematic use of specialised CID and forensic resources to gather and present evidence; the use of designated photographic and video teams (including, where suitable, the use of special low-light equipment and cameras mounted on helicopters); the use of miniature tape-recorders (as an aid to contemporaneous note taking); and floodlighting equipment.

I attach a note about the cases brought following the 1985 riots. This shows that a large number of people were charged with offences, and that the number of convictions to date is also high. (At Tottenham in particular, photographs taken by police photographers - in conditions of considerable risk - have played an important part in identifying offenders). Many of the most serious cases have still to come to trial. We interpret the figures as showing that despite the obvious difficulties in identifying individual miscreants involved in crowd disorder in the dark, the police have had considerable success in this aspect of their work.

However, the Commissioner's recent review has also extended to questions of identification and evidence-gathering, and the following relevant recommendations (which he has accepted) are being implemented:

(i) a team of CID officers, supported by civil staff and the requisite equipment necessary to conduct a major crime investigation, should be constituted and deployed at an early stage on any occasion of serious public disorder;

(ii) teams of officers should be established at the outset of the disorder specifically trained and equipped to collect evidence of criminals and their activities;

(iii) means of improving flood-ighting at the scene should be evaluated and developed;

(iv) further consideration be given to the use of mobile photographic equipment.

In connection with these last two recommendations, the Metropolitan Police helicopters are already equipped with powerful floodlights (which have proved very effective) and they have a "heli-tele" capability. But use of the helicopter is affected by bad weather and topography. At ground level the Metropolitan Police have powerful lighting and photographic equipment. They acquired more such equipment immediately after Tottenham. There would however be advantage, particularly in terms of mobility, in the development of floodlighting and photographic vehicles, and further thought is being given to this. The photographic vehicle used at football grounds is at present unsatisfactory in riot conditions. It is vulnerable to petrol bomb attack if deployed too close to the scene of action and the cameras are not high enough to take useful pictures if deployed behind police lines. These problems are being further considered.

The Commissioner's report on his public order review is being examined urgently by ACPO to ensure that its lessons are disseminated to forces nationally.

I am copying this letter to Joan MacNaughton (Lord President's Office), John Howe (Ministry of Defence), Robert Gordon (Scottish Office), Andrew Lansley (Chancellor of the Duchy of Lancaster's Office), and Michael Stark (Cabinet Office).

Yours.

Stephen

S W BOYS SMITH

Mark Addison, Esq.,

1985 RIOTS

CONVICTIONS (as notified by 17/7/86)

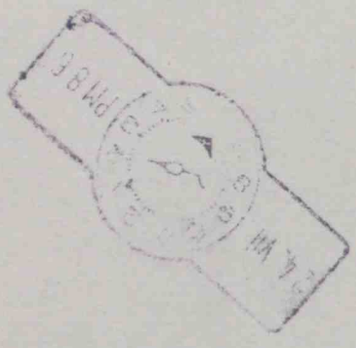
	HANDSWORTH	BRIXTON	TOTTENHAM	TOTAL
(a) charged	400	204	159	763
(b) pending	294	95	98	487
(c) cases completed	106	119	61	286
(d) convictions	99	87	53	239
(e) not convicted	7	32	8	47
% convictions of completed cases	93%	73%	87%	84%

Total 1985 riot cases completed = 286
% convictions secured 84%

H. AFFAIRS

PUBLIC GOODS

PT 7



NSPM

FCS/86/196

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Public Order Bill:
Incitement to Racial Hatred - Broadcasting

1. I am sorry at last not to have commented earlier on your correspondence with Willie Whitelaw about the extension to broadcasting of certain provisions in the Public Order Bill.

2. From the start I have advocated that broadcasting be covered by the new Bill, since inflammatory statements carried by the British media can have a far reaching and damaging effect on British interests. I am glad that you plan to introduce an amendment to include broadcasting, though I would have also wished to see broadcasting authorities covered. I am not convinced that the inclusion of the authorities in the incitement of racial hatred provisions would be violently opposed by all those who have been linked to the BBC and IBA. I hope that amending legislation will be introduced as soon as possible.

3. I am copying this minute to the Prime Minister, the members of 'H' Committee, First Parliamentary Counsel and Sir Robert Armstrong.

Foreign and Commonwealth Office
21 July 1986

(GEOFFREY HOWE)

HOMG AFFAIRS Public Order PB

CC 59

ATTORNEY GENERAL

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01 405 7641 EXT 936.6201

17 July 1986

The Rt Hon Douglas Hurd MP
Secretary of State for the Home Office
Queen Annes Gate
London SW1

NBPM.

Dear Douglas.

FIGON BLUP

Thank you for copying to me your letter of the 30th June 1986 to the Lord President about the enforcement of the duty to register for community charge purposes.

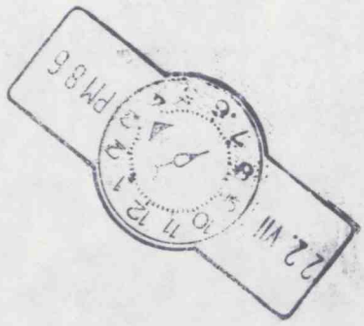
I am in agreement with you on this subject. In particular, I share Quintin's view that they would be open to severe criticism for allowing forgetfulness or incompetence to result in criminal records for large numbers of people who would not generally be thought to be morally culpable. I am also particularly impressed by the fourth paragraph of your letter. It seems to me that the extent of the prosecutioral discretion which would have to be exercised if inappropriate prosecutions were to be avoided would go way beyond the extent of the discretion which we normally expect prosecutors to exercise. The reality would be, I suspect, that prosecution would be the exception rather than the rule and in those circumstances decisions to prosecute would be vulnerable to attack on the basis that the local authority was being vindictive or motivated by political consideration.

Copies of this letter go to members of E(LF) and the Lord Chancellor.

Yours ever.

Michael

HOME AFFAIRS PUBLIC ORDER PT3



CONFIDENTIAL

CCB9

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

SECRETARY OF STATE
FOR
NORTHERN IRELAND

NBPM

The Rt Hon Douglas Hurd CBE MP
Secretary of State for the Home Department
Home Office
Queen Anne's Gate
LONDON
SW1H 9AT

14th July 1986

Dear Secretary of State,

PUBLIC ORDER BILL - PARTS I AND IV

I wrote to you on 16 October last indicating that it may be appropriate for the new offence of 'disorderly conduct', as contained within Part I of the Public Order Bill, to also be introduced to Northern Ireland.

Following a comprehensive and detailed consideration of the legislation currently dealing with disorderly behaviour in Northern Ireland, and having consulted the RUC, I am now satisfied that the existing provisions here already fully cover the range of anti-social behaviour designed to be caught by the new offence in England and Wales. I do not, therefore, see any need to introduce the new type of offence to Northern Ireland.

Also, as envisaged, given the small scale of football attendance in Northern Ireland with the absence of any real problems concerning crowd behaviour, I do not propose to introduce legislation on exclusion orders and associated issues as contained within Part IV of the Public Order Bill.

I am copying this letter to the Prime Minister, members of H Committee, Richard Tracey, Sir George Engle and Sir Robert Armstrong.

Yours Sincerely

N Dorrand
(Private Secretary)
for TK

(approved by the Secretary of State and signed in his absence from London)

CONFIDENTIAL

JLD

H AFFAIRS

PUBLIC ORDER

PT 3

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SWIH 9AT

14th July 1988.

Dear Quintin.

14/7

CONTAMINATION OF CONSUMER PRODUCTS

Thank you for sending me a copy of your letter of 9 July to Willie Whitelaw. I am very grateful to you for withdrawing your objections and to you and other colleagues for agreeing to the introduction of the new clause at Committee Stage of the Public Order Bill.

I entirely agree with you that penalties should be no higher than necessary. But I do not think that a maximum of six months' imprisonment, which would flow from your suggestion that the offence should be triable summarily only, would match the seriousness of the mischief concerned. The maximum penalty under section 1(1) of the Criminal Damages Act 1971 (destroying or damaging another's property) and under section 2 (threatening to destroy or damage another's property) is ten years' imprisonment; and the maximum penalty under section 24 of the Offences Against the Person Act 1861 (maliciously administering poison etc with intent to injure, aggrieve or annoy) is five years' imprisonment. The proposed new offence is intended to plug gaps in the existing law and, if it is to have any credibility, the penalties must match those for comparable offences. I therefore have in mind a maximum penalty of five years' on conviction on indictment, with six months' on summary conviction.

You draw a parallel with the offence of wasting police time which is subject to a maximum penalty of six months' imprisonment. But my decision to seek approval for a specific new offence was in part because of my concern about the inadequacy of that penalty for the mischief concerned.

I doubt whether it would be right to impose a value limit, similar to that for criminal damage, to distinguish between cases which would be triable summarily only and those which would be triable on indictment. This is because the damage inflicted may bear no relation to the degree of harm caused. In the Mars Bars incident in 1984 only a small number of products were contaminated so the actual physical damage was trivial. But, because of the indiscriminate nature of the threat, all products were under suspicion and had to be withdrawn. I understand that Mars United Kingdom Limited reckon to have lost around £2 million as a result of the incident. Equal harm would have been caused by a threat or hoax and in my view the same penalties need to be available as for actual contaminaton.

An additional consideration is that the criminal damage model would not be applicable to the public alarm or anxiety and physical harm limbs of the offence.

/Finally,

The Rt Hon The Lord Hailsham of Saint Marylebone, CH

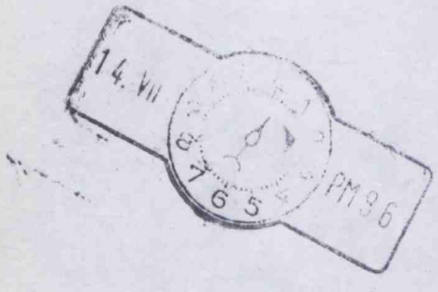
Finally, I confirm that I expect that there would be only a small number of prosecutions.

As you will understand, we shall really need to table the new clause this week in order for it to be taken at Committee Stage of the Public Order Bill. I hope therefore that you can agree that the clause should be introduced in the form that I have proposed.

Like you, I am sending copies of this letter to recipients of earlier correspondence.

Yours

Douglas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PM 96

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

SECRETARY OF STATE
FOR
NORTHERN IRELAND

The Rt Hon Douglas Hurd CBE MP
Secretary of State for Home Department
50 Queen Anne's Gate
LONDON
SW1H 9AT

July 1986

Dear Douglas

Thank you for copying to me your letter of 18 June to Willie Whitelaw outlining your proposals to deal with the actual, threatened or alleged contamination of goods. I have also seen your further letter of 3 July.

I fully support what you are proposing and agree that the Public Order Bill should be used to strengthen the law in this area. As you mention in your letter of 18 June, we do wish the proposed offence to extend to Northern Ireland and to this end perhaps our officials could be in touch over drafting.

I am copying this letter to the Prime Minister, members of H & L Committees, Paul Channon, to Sir Robert Armstrong and First Parliamentary Counsel.

Yours

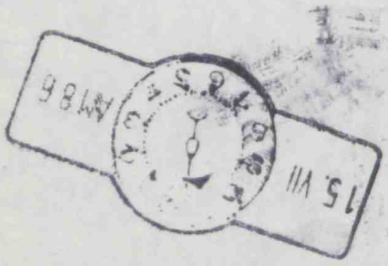
TK

ji

HOME AFFAIRS

PUBLIC ORDER

PTJ



CCBC

PRIVY COUNCIL OFFICE
WHITEHALL. LONDON SW1A 2AT

14 July 1986

MBPM

Dear Stephen,

PUBLIC ORDER BILL: MAXIMUM SENTENCE FOR RIOT

The Home Secretary wrote to the Lord President on 30 June about the proposal to amend the Public Order Bill to reduce the maximum sentence for the new statutory offence of riot from life imprisonment to ten years.

You will have seen from Tim Flesher's letter of 4 July that the Prime Minister endorses the Home Secretary's proposal. No other recipients of the Home Secretary's letter have commented. This letter is simply to say that the Lord President also agrees that the Home Secretary should proceed as he proposes.

I am sending a copy of this letter to the Private Secretaries to the Prime Minister, the Secretaries of State for Northern Ireland and Scotland, both Chief Whips, and Sir Robert Armstrong.

Yours sincerely,

Joan.

JOAN MACNAUGHTON
Private Secretary

Stephen Boys-Smith Esq

H. AFFAIRES
PUBLIC ORDER
PT

File

dr

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

9 July 1986

Dear Jacob

PUBLIC ORDER IN THE CITIES

Thank you for your letter of 3 July.

The Prime Minister is content with the Paymaster General's proposal that his report to MISC 104 should address the Prime Minister's question of what might be done to improve the underlying situation in the inner cities.

I am copying this letter to Joan MacNaughton (Lord President's Office), Rachel Lomax (HM Treasury), Stephen Boys Smith (Home Office), John Howe (Ministry of Defence), John Turner (Department of Employment), Rob Smith (Department of Education and Science), Robin Young (Department of the Environment), Robert Gordon (Scottish Office), Colin Williams (Welsh Office), Andrew Lansley (Chancellor of the Duchy of Lancaster's Office) and Michael Stark (Cabinet Office).

Yours ever

Mark Addison

(Mark Addison)

Jacob Franklin, Esq.,
Paymaster General's Office.

SRWAGJ

PRIME MINISTER

PUBLIC ORDER IN THE CITIES

When you saw the Home Secretary's note on this last month, you asked for a report on the progress which has been made in improving arrangements for identifying, and obtaining evidence against, rioters. You also asked what might be done to improve the underlying situation in the inner cities, which the Home Secretary accepted remained tense.

The Home Office are tackling the first point.

The Paymaster General proposes to deal with the latter point in his report to MISC 104 on the operation of the City Action Teams, and a letter setting out his proposals is attached. You will see that the PMG proposes to lead on the employment situation in the inner cities. We understand from the Department of Employment that he will not be coming forward with proposals for extra resources so much as seeking greater cooperation from other Departments.

Agree that the PMG should deal in this way with your request for advice on what can be done to improve the position in the inner cities?

Yes

MEA

MARK ADDISON
8 July 1986

CCBG

SECRETARY OF STATE FOR SCOTLAND

SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

The Rt Hon Douglas Hurd CBE MP
Secretary of State for Home Affairs
50 Queen Anne's Gate
LONDON
SW1H 9AT

8 July 1986

MBPM

Dear Douglas,

Thank you for copying to me your letter of 18 June to Willie Whitelaw in which you sought agreement to a new clause in the Public Order Bill to deal with incidents involving contamination of consumer products.

I am in complete agreement with you that measures must be available to deal with this kind of mischief which as you point out can entail considerable economic loss to manufacturers as well as public alarm. Such incidents have occurred in Scotland in the past and in 1985 a prosecution was taken in Glasgow Sheriff Court in a case involving the contamination of 'Lucozade' bottles by an individual who styled himself as a representative of the 'Liberation Army' and who sought an end to certain drug testing experiments on animals. The individual was charged with the common law offences of malicious mischief, breach of the peace and attempted extortion. In the event, in that particular case the accused pled guilty to reduced charges of breach of the peace and attempted extortion for each of which he received a 12 month prison sentence.

Kenny Cameron and I are satisfied that the common law in Scotland is adequate in this respect and that no useful purpose would be served by seeking to introduce statutory provisions applying to Scotland in this area. While I therefore have no objection to your proposal for introduction of specific statutory offences in England and Wales through the Public Order Bill it is not my intention to seek the extension of these statutory offences to Scotland.

I am copying this letter to the Prime Minister, members of H and L, Paul Channon, Sir Robert Armstrong and First Parliamentary Council.

Yours ever,

MALCOLM RIFKIND

HMP18501

HOME AFFAIRS
PUBLIC ORDER
PT 3

file

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

4 July 1986

The prime Minister has seen the Home Secretary's minute of 30 June to the Lord President about the maximum sentence for riot in the Public Order Bill. She agrees with the Home Secretary's view that the Government should follow the Law Commission's recommendation and reduce the maximum penalty for riot to ten years.

I am copying this letter to Joan MacNaughton (Lord President's Office).

(Timothy Flesher)

Ms. Clare Pelham,
Home Office.

RETURNS to
Encl to MGA
3/7/86
attached

BF to
DRN on
Tues.

10 DOWNING STREET

Nasko

This worries me. It looks as though Clarke wants to make a big thing of the further report – not at all what the PM would wish, particularly if it leads to high unemployment in the inner cities.

I have asked Langdon to investigate.

David

4/7

MC/B32

Department of Employment
Caxton House Tothill Street London SW1H 9NF
Telephone Direct Line 01-213 5949
Switchboard 01-213 3000

Mark Addison Esq
10 Downing Street
LONDON SW1

3 July 1986

Dear Mark,

The Paymaster General has seen your letter of 20 June to Stephen Boys-Smith at the Home Office, copied to us, about public order in the cities and steps to improve the underlying situation.

You will know that the Paymaster General has a remit to report to MISC 104 this month on the operation of the City Action Teams in their first year to April 1986, and on the impact of the launch of the Inner Cities Initiative. He would propose to expand his report in the light of the Prime Minister's request to address the contribution these two initiatives have made to the improvement of conditions in the inner city, the salient issues he sees emerging, and whether this is the time to contemplate further inner city initiatives.

This would therefore be a report by the Paymaster General separate from any other report that the Home Office or others might make, and it would lead (though not to the exclusion of other matters) on the employment situation of inner city residents. I would be grateful for your confirmation, and that of Stephen Boys-Smith, that the Prime Minister and Home Secretary are content with this approach.

I am copying this letter to the recipients of yours, and to Anthony Langdon at the Cabinet Office.

Yours ever,

Jacob Franklin

JACOB FRANKLIN
Private Secretary

HOME AFFAIRS
PUBLIC ORDER
PT 3

CONFIDENTIAL

CCBC

QUEEN ANNE'S GATE LONDON SWIH 9AT

3 July 1986

Dear Willie,

CONTAMINATION OF CONSUMER PRODUCTS

I am grateful for the generally supportive responses from colleagues to my letter of 18 June, in which I proposed the introduction in the Public Order Bill of new offences to deal with the contamination etc. of consumer products. It may be helpful if I briefly address the outstanding points.

Norman Fowler has pointed to medicines as being a vulnerable class of consumer product to which my proposals should apply, and draws attention to the weakness of the Medicines Act as regards threats and claims. We have it in mind that "consumer products" should be construed as widely as possible, and I am confident that Norman's important point can be taken care of in the drafting of the provisions. If his officials will get in touch as quickly as possible with mine on this point, as he has requested, that will be welcome.

Quintin Hailsham has expressed sympathy for the objects of my proposal but also some reservations. I am sure that his general points are right. We should not allow ourselves to be put into the position of always chasing after particular manifestations of undesirable behaviour with overly specific legislation, and the creation of new offences is quite distinct from catching the perpetrators. I would not, however, view my proposals in this area as being to any unusual degree vulnerable to criticisms of this kind. They are, as he suggests, targeted closely on the sort of mischief perpetrated by extremists such as animal rights groups; indeed we have been at pains not to develop them in such a way that they become a sort of blanket substitute, for example for consumer protection legislation. But the mischief is very real; it is quite extensive; and there are definite weaknesses in the existing law so far as its coverage of this kind of incident is concerned. We have done our best to think through the possibilities which arise in this field and to cover them as far as we possibly can in the proposals.

Perhaps I could illustrate the necessity for new legislation by reference to the offence of criminal damage, which Quintin mentions. Many instances of actual contamination would indeed be caught by this offence; but some would quite certainly not. For example, the simplest course for someone intent on inducing distrust in the public regarding a range of products would not be to contaminate them on the shelves. It would be to buy some of the products in question, take them home, contaminate them with some substance which did not endanger life, and then replace them on the shelves. Such conduct would not fall within section 1 of the Criminal Damage Act because the product would not, at the time the damage was inflicted, be property belonging to another; and it would not fall within section 2 because the damage inflicted would not be such as to endanger life.

The Rt Hon The Viscount Whitelaw, CH., MC.

/over...

HOME AFFAIRS
PUBLIC ORDER
PT 3

Nevertheless the damage could readily be such as to render the product unappetising or even noxious; and revelation of the fact that a few specimens of the product had been contaminated could induce widespread reluctance to buy it and even widespread alarm among those members of the public who had already bought such products.

As regards claims and threats, I accept that the best efforts of the police may be insufficient to allow the perpetrators to be caught, although they are of course bound by the nature of their actions to bring themselves to notice to a greater degree than criminals generally care to do. In the event of such a person being caught, however, it is plainly unsatisfactory and in my view publicly indefensible that there should be any difficulty in finding an offence with which to charge him. We owe it to the police, if we expect them to take this sort of behaviour seriously, to ensure that an adequate framework of law is available.

The weaknesses of the present law have been very competently analysed by the legal advisers to the companies which have suffered from this sort of activity. In responding to their concern we have found that we cannot in all conscience or with conviction claim that the existing law in England and Wales is adequate. A case could occur at any time in which its weaknesses would be shown up.

I hope that in the light of these points Quintin will feel able not to press his reservations and I can have the early agreement of H Committee to proceed.

I am sending copies of this letter to the Prime Minister, members of H and L Committees, Paul Channon, First Parliamentary Counsel and Sir Robert Armstrong.

Yours,

Douglas.

PRIME MINISTER 2 July 1986

LIFE SENTENCE FOR RIOT

The Court of Appeal has reduced the sentence on Kevin Whitton from Life to 3 years. The House of Lords is said by the Home Office to be likely to follow the recommendation of the Law Commission to bring down the maximum sentence to 10 years. The Home Secretary bows to the likelihood of a House of Lords defeat and wishes to fall in line with this proposal to bring the maximum to 10 years.

The events of the NUM strike are fading but Wapping is still clearly on our map. Is it right to send signals to the country that we are weakening? We doubt it.

We have had a word with Lord Denham, who reports that the issue is not one where he foresees defeat in the Lords. The issue is not as clear cut as Douglas Hurd believes.

HARTLEY BOOTH

PRIME MINISTER

MAXIMUM PENALTY FOR RIOT

The Home Secretary's letter attached proposes that the Government should now agree to reduce the maximum sentence for riot from life to 10 years, following the Court of Appeal decision in the Whitton case.

You discussed this with the Lord President and the Home Secretary in December last year when it was agreed that the Public Order Bill should provide a maximum sentence for riot of life, but that options should be kept open so that account could be taken, if necessary, of the judgment of the Court of Appeal.

The Home Secretary's view remains that the Government should follow the Law Commission's recommendation and reduce the maximum sentence, to 10 years. Where there is evidence of harm or injury, life imprisonment would still be available, as indeed it was in the Whitton case, under the GBH charge. Furthermore, the Home Secretary feels that a change of this kind would help pacify the Lords generally on the Bill.

The Lord President, I understand, agrees that there is a good chance that the Lords will not accept the proposal for a life sentence for riot, and that, even if it reluctantly did so, the struggle runs the clear risk of queering the pitch for the Bill more generally.

In logic, the Court of Appeal decision in the Whitton case does not matter very much one way or the other. The original sentence was widely recognised to be an eccentric one, and the Court of Appeal expressed no view on whether life imprisonment might sometimes be justified for riot. More relevant is the Home Secretary's point that between 1974 and 1984 no-one convicted of riot received a sentence longer than five years.

The major concern is really a presentational one, that the

Government may be seen to be going soft on law and order. That would be a difficult charge to sustain in view of the firm stance taken elsewhere in the Bill. And presentational factors need to be weighed against the practical difficulties which the Lord President believes he would face in the Lords unless the Government accept the Opposition amendment.

A note from Hartley Booth is attached recommending on balance that you should oppose the Home Secretary's proposal. (The Lord President does not, however, share his assessment of the prospects of defeat in the Lords.)

Agree the Home Secretary's proposal to reduce the maximum sentence for riot from life to 10 years? Yes

Or

Prefer that the Lord President should try and fight it out in the Lords?

If you decide on the latter, I think we shall have to try and set up a quick and urgent meeting.

Mark Addison

MARK ADDISON
2 July 1986

EL3BGQ

FILE DA

10 DOWNING STREET

SW1A 2AA

From the Principal Private Secretary 1 July 1986

Dear Joan,

TRAVELLERS

The Prime Minister has seen the Lord President's minute of 30 June in which he records the outcome of the discussion at Home and Social Affairs Committee on 26 June concerning groups of travellers.

The Prime Minister is generally content with the decisions of H Committee, and she would like the Lord President to report briefly the Committee's conclusions to Cabinet on Thursday.

I am sending a copy of this letter to the Private Secretaries to members of the Cabinet, Murdo Maclean (Office of the Parliamentary Secretary, Treasury), Michael Saunders (Law Officers' Department) and Michael Stark (Cabinet Office).

Yours ever,
Nigel Wicks

(N.L. WICKS)

Miss Joan MacNaughton,
Lord President's Office.

cc CO DTI HMIT bc BG
CWO WO HCO
HOD SO HO
DTN DOE
CDL MAFF
PGO DHSS
DTM MOD
LPSO NIO
CST DES
DOT FCO

AP

Prime Minister 1 cc S/G B/up.

Are you generally content? If so, ask the Lord President to report briefly to Cabinet on Thursday?

PRIME MINISTER

TRAVELLERS

Following discussion at Cabinet on 5 June (CC(86)22.1) it was decided to give urgent consideration to the action that might be taken to deal with groups of travellers of the kind which had invaded the land of a Somerset farmer, Mr Attwell, and subsequently Forestry Commission land in the New Forest. The Secretary of the Cabinet set in hand work at official level and reported its outcome to you on 13 June. You subsquently asked me to carry ministerial consideration of his paper forward.

N.L.W. 30.6

2. The Home and Social Affairs Committee considered the matter at its meeting on 26 June. The Committee endorsed the short-term measures identified - information-sharing between police forces, measures to tackle social security fraud and the production of guidance on how best to obtain quick redress under civil law for trespass. Michael Jopling was asked to try to resolve some last minute difficulties that had arisen with the National Farmers Union and Country Landowners Association over promulgation of this guidance. For the longer term, the Committee agreed with Douglas Hurd that while the effective action taken by the Hampshire and Wiltshire police had temporarily alleviated the problem and removed national media attention, it remained a matter of considerable public concern in the areas affected and one in which action still had to be taken to avoid a recurrence. They considered two areas in which new police powers might prove of benefit: the law of trespass and the impounding of vehicles.

Trespass

3. On trespass, as you know, Douglas Hurd has now narrowed down the options to two possibilities: to amend Clause 14 of the Public Order Bill, which gives the police new powers in certain circumstances to control assemblies on public land, so that it

covers private land as well; or to create a new offence of criminal trespass. The Committee expressed a strong preference for the latter approach. In reaching this view, they were much influenced by the views of the police that Clause 14, which was of course designed for a different purpose, would not prove effective in dealing with the convoy in many of the situations that might arise. The reason for this is that for much of the time they would not be in breach of one of the tests that must be satisfied before the Clause 14 powers can be invoked. It was also explained that, while some police had reservations about creating a new criminal offence of trespass, those most concerned with groups like the convoy favoured an offence on the lines Douglas now proposed and thought it would prove adequate.

4. The Committee also considered the composition of the new offence. This is outlined in the attached annex. We were mindful of the need, identified during the Cabinet discussion, to avoid catching within such an offence groups of people like ramblers, youth organisations, caravanners and hunts, who, while they might trespass temporarily, did not give rise to the same problems as those posed by groups such as the convoy. By and large we thought Douglas had been successful in achieving this objective, although further refinement might be possible once drafting began. The Committee also recognised the advantage of excluding gypsies from the ambit of the Clause. This was not based on any sympathy for the gypsies as such but rather on a concern to limit the resource burden the new offence would put on the police (they are particularly anxious that gypsies should be excluded) and a feeling that, while the present system relating to gypsies may not be ideal, it had proved generally successful in operation; to upset it was likely to give rise to renewed political and Parliamentary trouble to very little end. By incorporating an element of harassment/intimidation into the new offence, Douglas considers that he will exclude most gypsy groups other than those who do cause harassment or intimidation. This minority of gypsies will rightly be caught by the new offence.

5. Finally, the Committee recognised that further thought would need to be given to the timing of introduction of the new offence. There is a wide variety of special interest groups who will be concerned to see the new offence does not catch them, and this means that its passage will take a good deal of Parliamentary time. If the new offence is to be introduced by amendment to the Public Order Bill this will need to be done during the spill-over when time is very short. I am concerned that the Opposition will be able to exploit this to force concessions. However, I am also conscious that the alternative of introducing a short specific Bill at the start of next Session has drawbacks too. We do not have to resolve this now and I suggest that Douglas and I consider this further with the other business managers. We shall also have to consider tactics in relation to the possibility of a backbench amendment to widen Clause 14 of the Public Order Bill.

Vehicles

6. We also considered the need for new powers to impound unroadworthy and unlicensed vehicles. The police action at Stoney Cross showed how effective this can be but I understand that there is the possibility of a legal challenge to their action being mounted. This strengthens the case for change and John Moore already has a Road Traffic Law Review in motion to which these particular questions could be referred. It will report at the end of the year.

Social Security

7. The Committee also considered the wider issue of entitlement to social security payments. The main issue to be addressed appeared to be the effectiveness of the availability for work test and David Young and Norman Fowler agreed that their departments should consider this further within the ambit of the wider ranging work David has begun in this area. The difficulty is

ANNEX A

Elements of a new police power

1. (a) entry without lawful authority;

(b) with the intention of residing there for any period; and

(c) refusal to leave at the request of the lawful occupier.

2. Police belief that

(a) the trespassers have caused, or are likely to cause, damage to property; and

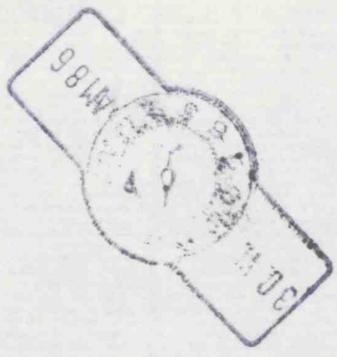
(b) the lawful occupier is harassed or intimidated by those present;

to entitle them to direct anyone present to quit the land.

3. Refusal to obey a police direction to be an offence triable summarily with a maximum penalty of three months and/or a fine of £1,000.

4. "Property" should include crops but not plants growing wild. "Lawful occupier" should include his servants or agents.

HOME AFFAIRS : Public Order : Pt 3.



that even where entitlement to unemployment benefit and supplementary benefit can be removed there is still recourse to urgent needs payments and it would be most difficult to take action in that area without affecting other more deserving groups.

Conclusion

8. Taken as a whole, I think these measures will constitute a good response to the problems raised by such groups as the convoy. I recommend that we now carry them forward. If you would like me to elaborate on any of the points at a forthcoming Cabinet meeting I should be glad to do so.

9. I am sending a copy of this minute to the members of the Cabinet, to the Parliamentary Secretary, Treasury, the Attorney General, and Sir Robert Armstrong.

Privy Council Office
30 June 1986

010

(113)

CF AT FLAP 77s please. PT 2 CCBG

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SWIH 9AT

30 June 1986

Dear Willie,

PUBLIC ORDER BILL: MAXIMUM SENTENCE FOR RIOT

You will remember that after discussion with the Prime Minister just before the introduction of the Public Order Bill, we increased the maximum sentence for the new statutory offence of riot in clause 1 from ten years to life imprisonment. We did so because a life sentence for riot had just been passed at the Old Bailey on Kevin Whitton, a Chelsea football fan; and it was thought right to keep the position open pending any appeal. We have said during the various stages of the Bill, that before coming to a final decision we wanted to consider carefully the judgment of the Court of Appeal, and to listen to the views expressed in Parliament.

The Court of Appeal heard Whitton's case on 19 May and reduced his sentence for riot to three years. Lord Lane said that in Whitton's case a life sentence was wrong in principle. The Court of Appeal expressed no view on whether life imprisonment might ever be justified and it would therefore be open to the Government to retain the present maximum penalty of life, on the basis that Whitton's case was a relatively trivial example of riot, and that life was still needed for the worst cases, in which people were killed or seriously injured.

My own judgment is that this would be the wrong course to pursue. The Law Commission recommended a maximum penalty of ten years; and when we accepted their proposed maximum penalties in last year's White Paper, it was the subject of hardly any comment. A ten year maximum is in line with present day sentencing practice: of the 255 defendants convicted of riot between 1974 and 1984, none received a sentence longer than five years. Some of our back-benchers in the Commons supported life, but that was before the judgment of the Court of Appeal and no-one on Second Reading in the Lords spoke in favour of life. Four Peers on the Opposition and cross-benches, including Lord Scarman, urged a return to ten years.

There is a strong expectation in the Lords that, following the Court of Appeal judgment, the Government will now reduce the maximum sentence for riot to the level recommended by the Law Commission. Second Reading showed that parts of the Bill will be strenuously opposed, and I think that we shall be better placed to resist that opposition if we can show some flexibility on this point. To convict someone of the new statutory offence it will <u>not</u> be necessary to show that he injured another or damaged property. It will suffice that the defendant, as part of a group of twelve or more with a common purpose, used unlawful violence (e.g. throwing stones). If there is evidence of specific harm - grievous bodily harm, or arson, or criminal damage with intent to endanger life - life imprisonment with still be available.

The Rt Hon The Viscount Whitelaw, CH., MC.

/over

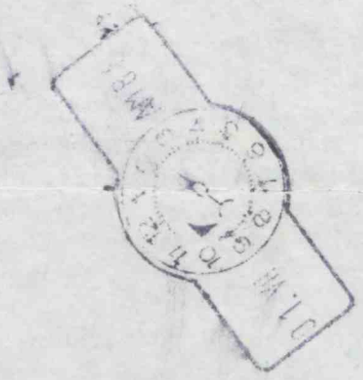
HOME AFFAIRS
PUBLIC ORDER
PT 3

The Opposition have now tabled an amendment to reduce the maximum sentence for riot to ten years and I would like Simon Glenarthur to indicate to them that we are prepared to accept it (though the drafting of the amendment is defective so a revised version will have to be tabled). Because riot will be discussed on the first day of Lords Committee on 10 July, I hope I can assume that I have agreement to this course unless I hear to the contrary by the end of the week.

A copy of this letter goes to the Prime Minister, the Lord Chancellor, the Secretaries of State for Scotland and Northern Ireland, the Chief Whips in the House of Commons and the House of Lords, and Sir Robert Armstrong.

Yours,

Douglas.



CONFIDENTIAL

CCBG

NEA

NBPI?

DEPARTMENT OF HEALTH & SOCIAL SECURITY

Alexander Fleming House, Elephant & Castle, London SE1 6BY

Telephone 01-407 5522

From the Secretary of State for Social Services

NW 3-6

The Rt Hon Douglas Hurd CBE MP
Secretary of State for the
Home Department
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

MBPM

28 June 1986

Dear Douglas

PUBLIC ORDER BILL: LATE ADDITION ON CONTAMINATION

FILE WITH NLW

I have seen your letter of 18 June to the Lord President about legislation to deal with the contamination of consumer products and with threats or claims of contamination. I fully support your proposal to use the Public Order Bill to strengthen the law in these areas.

As regards medicines - a particularly vulnerable commodity in view of the activities of the Animal Liberation Front - the Medicines Act itself goes some way down the path you propose and in some respects further. One area not covered by the Medicines Act is the threat or claim of contamination which I think should be covered in the changes you propose. I have asked officials here to make contact with yours to discuss this point and to ensure that the proposed amendment takes account of the present position on medicines.

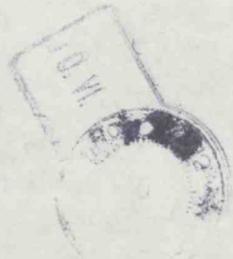
I am copying this letter to the Prime Minister, members of H and L Committees, Paul Channon, Sir Robert Armstrong and First Parliamentary Counsel.

Yours ever

NORMAN FOWLER

CONFIDENTIAL

HOME AFFAIRS
PUBLIC ORDER
PT 3



CCBG

HOUSE OF LORDS,
LONDON SW1A 0PW

27 June 1986

My dear Willie. Contamination of Consumer Goods

I have had an opportunity to consider Douglas Hurd's letter of 18 June and Michael Jopling's of 24 June.

Whilst I have considerable sympathy for the object of this proposal I am troubled by the idea of establishing a criminal offence directed at a strictly circumscribed set of facts. Responding ad hoc to particular problems always leaves the possibility that next week some new, and unproscribed, means of taunting the public will be devised, necessitating more defensive legislation.

I would have thought that many instances of such contamination could be brought within, for example, ssl and 2, Criminal Damage Act 1971. Would a further offence serve any practical purpose? Proscribing conduct is one matter, catching the culprit is another. And what is the likelihood of catching someone who claims to have contaminated goods without having done so?

I am sorry to adopt a rather negative approach, but I think we must be satisfied not only of the attractiveness of such a further provision, but also of its real worth.

Copies of this letter go to recipients of Douglas's.

Yrs: Q.

The Right Honourable
The Viscount Whitelaw CH, MC
The Lord President of the Council
Privy Council Office
68, Whitehall
London, S.W.1.

HOME AFFAIRS
PUBLIC
ORDER
PT 3

SRWAFS

COPIED TO
BROADCASTING legislation PT3

PRIME MINISTER

H ON THURSDAY, 26 JUNE

TRAVELLERS

H agreed

- to endorse the package of measures put forward by Sir Robert Armstrong including disseminating the lessons learned through other police forces and providing the NFU and CLA members with advice;

- to endorse the Home Secretary's proposals for a specific offence of trespass rather than an extension of clause 14 of the Public Order Bill (the need was accepted to exclude gypsies as far as possible from the scope of any new provision);

- to ask the North Committee on Road Traffic Law to look at police powers to impound unroadworthy or unlicenced vehicles;

- that the Secretaries of State for Social Services and Employment and the PMG should look at benefit entitlements (though H was not optimistic that it would be easy to tackle this without disenfranchising other deserving groups).

COMMUNITY RADIO

H, by a majority, agreed that there were grave difficulties in proceeding with the Community Radio experiment now. There could be problems with political bias, and risks of souring our relationships with other countries (eg, India, in relation to a Sikh radio station). The proposal should be aired instead in the forthcoming Green Paper on Radio. The Home Secretary was asked to reconsider his proposals, and in

particular to think about how the abandoning of the experiment should be best presented.

Notes from Hartley Booth, who attended the meeting, are attached, as are the minutes themselves if you wished to read them.

Mark Addison

(MARK ADDISON)
27 June 1986

PRIME MINISTER

26 June 1986

TRAVELLERS

H MEETING, THURSDAY 26 JUNE

It was reported at H Committee that, thanks to firm police action in Hampshire and Wiltshire, the problem has now eased. DHSS are refusing about 20% of claims by travellers by tightening up on identification requirements. The Lord Chancellor's Department and the Home Office are discussing ways to speed up the civil court process. It is now generally appreciated that the police have more powers than had been supposed.

The Home Secretary proposes that Clause 14 of the Public Order Bill should not be extended to cover assemblies on private land. He says this will be too controversial. Instead, he advocates a proposition which is much narrower, set out in his letter of 20 June, which we attach and highlight. H agreed with the Home Secretary, and we support this conclusion. Whether this should be done in the present Session or in a Bill to be brought in in the next Session will be decided by the Lord President, Chief Whip and Lord Privy Seal.

The reason why we do not go down the draconian route of extending the Public Order Bill to assemblies on private land is that it will be difficult to draft a Clause that would exempt gipsies without permitting hippies to avoid the law.

The committee noted that the fox hunting lobby were on the scent of a legislative quarry that might be used to attack them!

Criminal trespass in Scotland under the 1865 Act, although it works well there, is not a feasible option here. It only works there because Procurators Fiscal have the discretion not to prosecute small numbers of gipsies. We could hardly put through the legislation here explaining that we would not use the Bill some of the time.

As there was no legislative slot to change the law to toughen up vehicle examination, this matter was left.

HARTLEY BOOTH

006/2770

CCRG

CHIEF SECRETARY TO THE TREASURY

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Viscount Whitelaw PC CH MC
Lord President of the Council
Privy Council Office
Whitehall
London
SW1A 2AT

13 pm

26 June 1986

Dear Willie,

PUBLIC ORDER BILL:
LATE ADDITION ON CONTAMINATION

I have seen Douglas Hurd's letter of 18 June about inserting into the Lords Committee Stage of the Public Order Bill a new offence of contaminating, threatening to contaminate or claiming to have contaminated goods for sale.

I am very sympathetic to the general desire to provide something that is more appropriate to the public nuisance that such offences represent. I understand that the cost of the change is expected to be negligible and, provided present provision for, say, courts, legal aid and prosecution is able to absorb this, I can support the proposal.

I am copying this letter to the Prime Minister, members of H and L Committees, Sir Robert Armstrong and Sir George Engle.

Yours ever,

JG

JOHN MacGREGOR

HOME AFFAIRS

REMENT of PUBLIC
ORDER

PT3

CCBG

Ministry of Agriculture, Fisheries and Food
Whitehall Place London SW1A 2HH

From the Minister's Private Office

NW

Miss J MacNaughton
Private Secretary to the Lord President
of the Council
68 Whitehall
London
SW1A 2AT

24 June 1986

Dear Joan,

FILE WITH MGA

My Minister has seen a copy of the Home Secretary's letter of 20 June to the Lord President about the peace convoy.

Whilst he favours the second option he is most concerned that it could cause major problems with the pro-gypsy lobby and have a major effect on the historic gypsy fairs such as the one held in Appleby in Cumbria, which is now much less of a nuisance then it used to be. He feels that these points should be borne in mind when considering the second option.

On the Appleby fair my Minister has commented that it might be helpful if the Home Office could consult the Cumbria police and I should be grateful if the Home Office could follow this up.

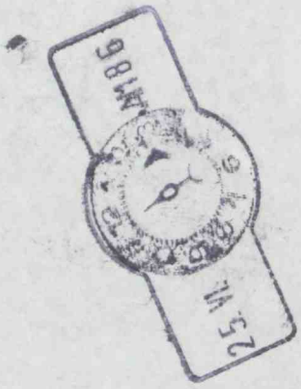
I am copying this letter to the Private Secretaries of the Members of H Committee, of the Prime Minister, the Home Secretary, the Attorney General, the Secretary of State for Transport and Sir Robert Armstrong.

Yours sincerely,

Liz

MRS E M MORRIS
Private Secretary

HOMG AFFAIRS Public Order P72



CONFIDENTIAL

SRWAFA

10 DOWNING STREET

From the Principal Private Secretary

23 June 1986

TRAVELLERS

The Prime Minister studied over the weekend the Home Secretary's letter of 20 June about criminal action against assemblies on private land. She has made two comments:

(i) She would be pleased if we finished up by having both the powers referred to in the Home Secretary's minute: ie, the extension of clause 14 to assemblies on private land and a limited offence of criminal trespass.

(ii) She has noted that gypsies may cause a nuisance in localities and distress to the farmer whose land they occupy and that they often cause as much damage. She therefore does not see why gypsies should not be caught by the new clause.

I should be grateful if the Lord President could ensure that the Prime Minister's points are taken account of in the forthcoming discussion by H Committee.

I am copying this letter to the Private Secretaries to the Home Secretary and Sir Robert Armstrong.

(N. L. WICKS)

CONFIDENTIAL

Miss Joan MacNaughton,
Lord President's Office.

010

CCBG

ATTORNEY GENERAL

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-405 7641 Extn

20 June 1986

The Rt Hon Douglas Hurd CBE MP
Secretary of State for the Home Department
Home Office
Queen Annes Gate
London SW1

Dear Douglas

WITH MCA?

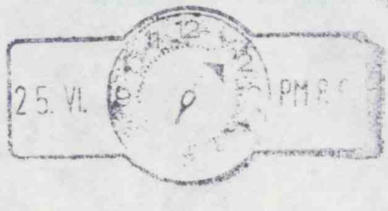
Thank you for copying to me your letter of the 18th June to the Lord President outlining the options for bringing forward a measure to ensure that incidents involving the actual, threatened or alleged contamination of consumer products which cause companies to suffer serious economic loss and create public alarm should fall within the criminal law.

I have no doubt that the early introduction of a measure such as that canvassed in the fifth paragraph of your letter is both necessary and desirable. The difficulty with relying on inclusion of the measure in the list of hand-out Bills is the lack of certainty. Given the existence of the lacuna and our awareness (and probably that of the ALF and similar bodies) of it, I think we would be susceptible to criticism if we did not take the very first opportunity to act. Thus, I wholly support your view that we should seek, even at this relatively late stage, to use the Public Order Bill as the vehicle for legislation.

ATTORNEY GENERAL

Copies of this letter go to the Prime Minister, Members of H and L committees, Paul Channon, Sir Robert Armstrong and First Parliamentary Counsel.

Yours ever. Michael


25. VI.

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SW1H 9AT

20th June 1986

Dear Lord President

PEACE CONVOY

In my minute to the Prime Minister of 6 June I outlined four possible changes to the criminal law to help prevent the kind of invasion suffered by Mr Attwell. We have now reduced these to two, and I thought it might be helpful if I indicated how our thinking was developing before next week's meeting with colleagues. The two options we are now considering are an extension of the new police powers over assemblies in clause 14 of the Public Order Bill to cover assemblies on private land; or a limited offence of criminal trespass. I prefer the latter.

Extension of clause 14 to assemblies on private land

Clause 14 of the Public Order Bill confers new powers on the police to control open air assemblies in public places which threaten serious public disorder, serious damage to property, serious disruption to the life of the community, or the intimidation and coercion of individuals (the "four tests"). The powers are restricted to assemblies of 20 or more people, and do not extend to assemblies on land not open to the public.

Clause 14 was not designed to deal with aggravated trespass. It is intended to provide the police with more effective powers to prevent serious disorder and serious disruption at large demonstrations and mass pickets. But the proposal to extend clause 14 to private land has wide support, from the Country Landowners Association, the National Farmers Union, the Association of County Councils, English Heritage and a sizeable number of our backbenchers. Such an amendment is certain to be moved next month during the Committee Stage of the Public Order Bill in the House of Lords, and will prove difficult to resist. It is difficult to explain for example why Stonehenge or indeed Stoney Cross are protected by clause 14, because they are public places, while the National Trust farmland across the road is not. Part of the CLA's argument is that once clause 14 is in force, the Convoy will have a greater incentive to trespass on private land in order to avoid the controls on assemblies in public places.

Because clause 14 is already one of the Bill's most controversial provisions I have been reluctant to endanger it by

/extending it

The Rt Hon Viscount Whitelaw, CH, MC

extending it further. But the battle lines are already drawn in the Lords, and it may be that we are unlikely to lose many votes by extending clause 14 to private land. Our own supporters would vote for it more enthusiastically; while most of the Opposition will vote against clause 14 anyway. An extension of the clause may be forced upon us in any event; and it might be simplest to bow to this pressure. The police might be persuaded to accept it, especially if the alternative was something worse.

The fact is, however, that the police were lukewarm about the clause 14 powers in the first place and I doubt whether they would use them often against the Peace Convoy. If the police were reluctant to use clause 14 and the Convoy continued its present activities, the pressure to criminalise trespass would continue, and we would be blamed for adopting a solution that was ineffective. More importantly, I doubt whether clause 14 would work against the Convoy, given that for much of the time they do not breach one of the four tests. It might help to deal with the Convoy's worst excesses: they probably caused serious damage to property in Mr Attwell's case; and there may be occasions when they cause serious disruption to the life of the community. But too great a reliance on the serious disruption test may risk exposing the vagueness of that particular test, which is already much criticised, including by Lord Scarman.

The danger is that if the police are urged to use the clause 14 powers against the Convoy, they may do so in cases where there is no risk of serious disorder, serious damage or serious disruption. This would mean that either the tests were devalued or the police action might be overruled in the courts. Neither result would be desirable. And if the clause can be used against the Convoy, there is a risk that it could also be used against groups of 20 or more gypsies.

A limited offence of criminal trespass

My preference is to try to fashion a specific provision which is directly aimed at the Convoy's activities. The police could be given a power to require a person to leave who had:

(a) entered as a trespasser on any land (public or private);

(b) the purpose of residing for any period; and

(c) refused to leave on request of the owner or occupier; with the creation of an offence of refusing to leave when required to do so.

The qualification of residence (which is borrowed from the Caravan Sites Act 1968) should exclude ramblers and other 'temporary' trespassers. The power would still catch campers

/and caravanners

and caravanners; but I believe most trespassing campers would leave on request of the landowner. The main problem is that the power might catch gypsies. I understand that at any one time there are some 3,500 caravans (with 10,000 gypsies) camping illegally. – Why should they be caught by the law.

Local authorities and farmers would welcome the opportunity to remove gypsies which the new power would provide. We have therefore been looking for a further element to incorporate in the provision to try to distinguish the Peace Convoy from gypsies. The possibilities we have considered are:

(a) Ethnic origin Apart from the difficulties of principle, previous experience shows the difficulties in law of distinguishing between gypsies and members of the Peace Convoy by reference to ethnic origin or nomadic tradition;

(b) Numbers It is when the Peace Convoy come together in large numbers that they become so difficult to police, and that serious offences are committed. In Scotland the policy is to prosecute illegal encampments of travellers with more than 12 caravans. We could adopt a similar approach by limiting the offence to trespassers with 12 or more vehicles or caravans. But any such limit is arbitrary; the gypsies occasionally congregate in larger groups; the Irish tinkers generally do; and I doubt if our own supporters would understand why groups of fewer than 12 vehicles should be immune from prosecution. The Peace Convoy could organise itself so that batches of only 10 invaded each farm;

(c) Damage The main mischief caused by the Convoy in Mr Attwell's field was that they ruined his silage crop. But the Convoy seldom cause such serious damage (at Stoney Cross they just left a mess). The test would probably have to be one of simple damage. This element is incorporated in the provision outlined in Annex A, which would confer on the police a limited power to direct people to leave land, with an offence if they refuse to comply.

The difficulty is that gypsies often cause as much damage as the hippies. Any farmer who wanted gypsies off his land would be able to point to damage from their fires, scrap metal breaking etc. We have therefore looked for an extra element to distinguish the Peace Convoy in:

Why this reluctance to remove gypsies?

/(d)

(d) Harassment/intimidation Gypsies may cause a nuisance in the locality, and distress to the farmer whose land they occupy; but the Peace Convoy tend to go further and intimidate or harass those who get in their way. The provision at Annex A therefore incorporates this extra element.

Such a provision may prove difficult to draft; and I have not completed consultation with the police about this possible new power, although I hope to report their reaction to the meeting. I know that the police would be unhappy with a provision which caught large numbers of gypsies, because of the resource implications, and because they support our policy of non-harassment. They may also be concerned about an offence which relies upon a wide measure of police discretion to distinguish between the Peace Convoy and gypsies.

One further consideration with regard to the proposal is the risk that it will attract undesirable amendments. It could even re-open the issue of trespass on residential premises (on which our policy has been to wait for a Private Member's Bill) though I think that we could argue without much difficulty that there was a limit to what we could properly put into a Public Order Bill.

Unroadworthy vehicles

The police can prosecute and in some cases arrest for offences of unroadworthiness, but they have no power to prevent further use of unroadworthy vehicles. DTp's vehicle examiners have powers to prohibit unroadworthy HGVs and PSVs but not private buses or cars. These powers will be extended in August to all buses, and this will catch more of the Peace Convoy's vehicles. Breach of a prohibition is an offence, but this may have a limited effect on the hippies: the police will still have no power to impound.

At Stoney Cross the police impounded unlicensed and unroadworthy vehicles and are refusing to release them until put in order by their owners. Anyone seeking to drive away an unroadworthy vehicle was threatened with arrest under the Police and Criminal Evidence Act. Hampshire have sought to justify their action by reference to section 3 of the Criminal Law Act 1967 (which empowers anyone to use reasonable force in the prevention of crime): but the police seizure of vehicles is likely to be challenged in the courts.

Hampshire's actions show that a specific power to impound an unroadworthy vehicle would be useful in dealing with the Peace Convoy although it would not bite if the hippies took care to use legal vehicles. We see potential benefits in the wider road traffic context. The Road Traffic Law Review under Dr North's

/chairmanship is

chairmanship is examining the enforcement of road traffic offences and will report by the end of the year. Legislation introducing a power to impound would need to deal with issues such as its application to vehicles on private land, and facilities for repair and fees, and disposal of unclaimed vehicles, so that there would be benefit in having a considered view from the Review. The scope of the Public Order Bill would not allow such powers to be included, and there is no obvious legislative vehicle next session. But we should consider referring the road traffic issues highlighted by the Peace Convoy to the Review. This could be linked in any public statement with the extension in August of DTp examiners' prohibition powers. The remit could also cover impounding or wheelclamping for other offences connected with the hippies' vehicles, eg vehicle excise offences. A remit to the Review to produce an interim report on the impounding issue would give a greater sense of urgency now, but could cause embarrassment later if we have no vehicle for early legislation on a positive recommendation.

Limits of the criminal law

In my note to the Prime Minister I said that the criminal law was only part, but not the decisive part, of the Government's policy. We also need a coherent and comprehensive policy which will co-ordinate the activities of all Government departments which have dealings with the Convoy. Sir Robert Armstrong's minute of 13 June summarises the main possibilities, and I hope we will discuss that at our meeting also.

Conclusion

The choice between amending clause 14 and creating a new power of removal, backed up by an offence, is difficult. Both approaches have their problems. I am sure that we do not have the option of doing nothing. The London press has for the moment turned compassionate towards the Peace Convoy and is playing down their less attractive and more criminal characteristics, which have caused such trouble in the past. The mood, so far as I can judge, is very different in Wessex and the West Country: and with reason. If we were to leave the criminal law untouched we would face defeat in the Lords, and, even if successful there, would be hopelessly vulnerable to fresh trouble next year.

I believe that the new power is the better solution. If the other solution, extending clause 14, were forced on us in the Lords, we would probably have to grin and bear it, but we do not have to decide that now.

I also recommend that we refer the traffic issues identified above to Dr North's Review, but without asking for an interim report.

/I am copying

I am copying this letter and enclosure to Members of H Committee, the Prime Minister, the Attorney General, the Minister for Agriculture, The Secretary of State for Transport and Sir Robert Armstrong.

Yours sincerely

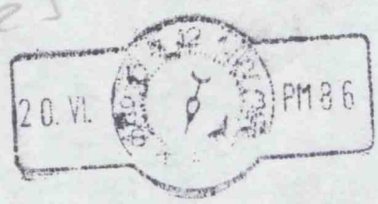
William Whitelaw

Approved by the Home Secretary
and signed in his absence

HOME AFFAIRS

PUBLIC ORDER

PTT



ANNEX A

Elements of a new police power

1. (a) entry without lawful authority;

(b) with the intention of residing there for any period;

(c) refusal to leave at the request of the lawful occupier.

2. Police belief that

(a) the trespassers have caused or are likely to cause damage to property; and

(b) the lawful occupier is harassed or intimidated by those present;

entitles them to direct anyone present to quit the land.

3. Refusal to obey a police direction is an offence triable summarily with a maximum penalty of three months and/or a fine of £1,000.

4. "Property" should include crops but not plants growing wild. "Lawful occupier" should include his servants or agents.

HOME AFFAIRS

PUBLIC ORDER

PTJ

SRW ALY

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

20 June 1986

PUBLIC ORDER IN THE CITIES

The Prime Minister has seen the Home Secretary's minute of 17 June. She is grateful to him for providing a useful report. She has noted that he shares the assessment of the police that the underlying situation in the inner cities has not improved, but that the lessons from last year are being learned and applied.

The Prime Minister would also find it helpful to have a report from the Home Secretary on the progress which has been made to improve arrangements for identifying, and obtaining evidence against, rioters in the event of trouble.

The Prime Minister has asked in addition for a rather fuller account of what steps are being taken to improve the underlying situation in the inner cities and for advice on whether there are any other steps which ought also to be taken. I should be grateful if you, in consultation with Jacob Franklin at the Department of Employment, and others as appropriate, would provide a further short report to cover these points.

I am copying this letter to Joan MacNaughton (Lord President's Office), Rachel Lomax (HM Treasury), John Howe (Ministry of Defence), John Turner (Department of Employment), Rob Smith (Department of Education and Science), Robin Young (Department of the Environment), Robert Gordon (Scottish Office), Colin Williams (Welsh Office), Jacob Franklin (Paymaster General's Office), Andrew Lansley (Chancellor of the Duchy of Lancaster's Office) and to Michael Stark.

(MARK ADDISON)

Stephen Boys Smith, Esq.,
Home Office.

PRIME MINISTER

PUBLIC ORDER IN THE CITIES

FLAG A — This is a good, though somewhat depressing, report from the Home Secretary.

He shares the police assessment that the underlying position in the inner cities has not improved. He reports on the reviews which have led to increased preparedness of the forces concerned, and recalls his announcement on the provision of plastic baton rounds and CS gas. Water cannon are still being evaluated, though results so far are not encouraging. Prevention work is clearly a long haul, but the police are pursuing this doggedly.

FLAG B — Hartley Booth's note points out that the Home Secretary's minute does not refer to the importance of ensuring that the criminals can be identified, if riots do occur (CCTV certainly seems to have had an impact on the football front).

Agree:

- to thank the Home Secretary for a useful report;

- to note his assessment that the underlying situation has not improved, but that the lessons from last year are being learned and being applied (both in ensuring the police are better prepared, and in tackling longer term preventative work);

- ask what progress has been made to improve arrangements for identifying and obtaining evidence against rioters in the event of trouble.

Morgo (Duty Clerk)

PP MARK ADDISON

19 June 1986

SL2AHV

- and what he considers can be done to improve the underlying situation

B

PRIME MINISTER

19 June 1986

PUBLIC ORDER IN THE INNER CITIES

The Home Secretary's paper is most useful in reviewing contingency preparation for future riots. We are concerned, however, that it does not touch on one important and hard-won lesson of 1984. It should ideally have a section that deals with 'New ways of gathering evidence'. You will recall the difficulties experienced by the Attorney General and the DPP in obtaining evidence against riotous and violent miners. This is always a problem for police and prosecuting authorities, the more so in recent riots because it is so difficult for most police to recognise and identify individuals from the black community.

When we discussed this with you in 1984, you agreed we need much better protected cameras - some of them on well-guarded vehicles - and also better computers to match photographs with records. We understand that you spoke to Leon Brittan about this, but the absence of any reference to improved evidence obtaining makes us fear that the initiative has been grounded. Perhaps you would like to write to Douglas Hurd asking for a report.

Yes no

HB.

HARTLEY BOOTH

010

COPY

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SWIH 9AT

18 June 1986

Prime Minister (2)
To note. The hope is that this can be squared with the Opposition first.
MES 25/6

Dear Willie,

A number of recent incidents involving the actual, threatened or alleged contamination of consumer products have caused companies to incur serious economic losses. Groups like the Animal Liberation Front seek to obtain publicity and further their cause by, for example, the poisoning of Mars bars or turkeys. They inflict maximum damage by casting doubt about the wholesomeness of all products of a particular description. Companies may not only have to call back and destroy products on the shelves, any one of which may have been contaminated, but may experience also long-term consumer resistance.

The police fully recognise the seriousness of this problem. They have issued advice about the operational handling of such incidents. Further, each police force in England and Wales has appointed a liaison officer at senior detective level with specific responsibility for oversight of the investigation of such activities in their area and for providing effective liaison and advice for senior management in industry. They have also set up at New Scotland Yard a national facility which provides a co-ordinating function in the collation of information and intelligence related to product contamination and extortion.

There are a number of offences which could apply. But none were designed to deal with this sort of mischief and it is to a considerable extent a matter of chance whether an offence has been committed. There are significant gaps in the law; and even when offences can be proved, condign penalties may not be available.

Officials in other interested Departments (including the Attorney General's Department, MAFF and DTI) and the DPP's office and Association of Chief Police Officers agree with my officials that the existing law is inadequate. This point has been pressed on us also by groups like the CBI and Retail Consortium and by a number of our back-benchers.

I propose, therefore, that a new offence should be introduced directed at this mischief. Specifically, it should be an offence to contaminate, threaten to contaminate or claim to have contaminated a good for the purpose of causing economic loss to those dealing in the goods, or of causing public alarm or anxiety, or of causing physical harm. It should also be an offence to plant, or possess for planting, a contaminated good for one of those purposes.

I believe that such an offence would deal effectively with the mischief concerned without being so wide as to catch other mischiefs already adequately dealt with by the law (eg the butcher who sells tainted meat). It would apply not just to food but to all consumer goods.

The Rt Hon Viscount Whitelaw, CH, MC

/over...

We have consulted a number of interest groups on a confidential b[illegible]s and all have indicated that they would support legislation along these lines.

Officials in the Northern Ireland Office have indicated that they would wish the offence to extend to Northern Ireland. SHHD officials have advised that their existing common law is probably adequate.

Approval has already been given to the inclusion of a measure on the contamination of consumer products in the list of hand-out Bills for next Session. But, on reflection, I believe there would be considerable advantage in including the necessary provisions in the Public Order Bill at Committee Stage in the House of Lords. The House of Lords authorities have confirmed to Parliamentary Counsel that a provision along the lines proposed would be "relevant" to the Bill.

All those concerned have been anxious to avoid unnecessary publicity for the gaps in the present law to avoid drawing these to the attention of groups like the Animal Liberation Front. For this reason the CBI, Retail Consortium and others have urged us to proceed by means of the Public Order Bill rather than a Private Member's Bill and I believe they are right. The Public Order Bill offers a better prospect of a successful and speedy conclusion; if the inadequacy of the present law is exposed, it will be important to act quickly so as to reduce the risk of further incidents occuring in the interim. The Prime Minister indicated to Michael Shersby at Questions on 8 May that we should not hesitate to introduce further legislation if it were needed. The Government would be vulnerable to criticism if further incidents occurred and we had not taken the opportunity to legislate in the Public Order Bill.

I am very conscious of the pressures on the House of Lords. Despite the above considerations, I would be reluctant to propose adding this to the Public Order Bill if I thought it would be controversial. But I believe there would be widespread support for the measure and little or no opposition. We should, however, be glad to sound out Opposition spokesmen before introduction of the proposed new clause.

In conclusion, therefore, I should be grateful for the agreement of colleagues to my proposals for amending the law and to incorporating the necessary provisions into the Public Order Bill at Committee Stage in the Lords next month.

I am sending copies of this letter to the Prime Minister, members of H and Leg, Paul Channon, Sir Robert Armstrong and First Parliamentary Counsel.

Yours,

Douglas.

PRIME MINISTER

PUBLIC ORDER IN THE INNER CITIES

My officials have recently consulted chief officers of police about the public order situation in the inner cities. You will wish to know the outcome. I also take this opportunity to report on the progress made since the riots last autumn in seeking to ensure that the police both deal swiftly and effectively with disorder and do what they can to prevent it.

PUBLIC ORDER PROSPECTS THIS SUMMER

2. Chief officers say that there has been no significant improvement in the situation in inner city areas since last autumn. The underlying tensions remain just below the surface and are shown in frequent attacks on individual police officers, resistance to law enforcement action and general anti-police hostility. Relatively low level disorder is a constant feature of life in some areas, together with high levels of crime - not only drugs but also muggings and burglary. Groups of unemployed youths, particularly but not exclusively Afro-Caribbean, congregate on the streets and in clubs with nothing to do and no inclination to seek useful occupation. For many of them the street culture of drugs, crime, violence and hostility to all forms of authority is pervasive.

3. This is a volatile mixture which could erupt spectacularly at any time. The triggering event could be police action which is, or is believed to be, too forceful (for example the shooting of Mrs Groce in Brixton) or, as in Handsworth last September, a minor road traffic accident. Chief officers also fear that events outside their own immediate areas, including events overseas (South Africa, Sikh-Hindu clashes in India) could lead to copycat disorder locally.

4. In addition there are specific tensions in some force areas which could create flashpoints. In West Yorkshire and the West Midlands there is tension between the Afro-Caribbean and Asian communities; there are also indications of an increased readiness on the part of Asians in East and West London to resort to violence in response to racial attacks; tensions in Brixton are not likely to be improved by the new leadership of Lambeth Council which, if anything, is even more extreme and anti-police than its predecessor.

5. The six chief officers who dined with me last night were also concerned about the impact among blacks here of disorder in South Africa. In their view the temptation to imitate it would be great.

6. This police assessment, though sombre, is not surprising. I see no reason to be more optimistic. The temperature in these areas will not drop suddenly. The next few years are likely to continue to be difficult ones in the inner cities. The possibility - indeed the likelihood - of further riots cannot be excluded. It is therefore all the more important that the police are fully prepared to deal effectively with disorder as and when it occurs; and that our economic and social policies should take account of this, the weakest point in our society.

POLICE PREPAREDNESS

7. Since the riots last autumn we have been taking action on a number of fronts. Colleagues are familiar with our recent discussion on police manpower, which enabled me to announce on 20 May a new phase in the expansion of the police forces of England and Wales. The police have also been reviewing the events of last autumn to ensure that lessons are learned.

8. The Metropolitan Commissioner has recently completed a thorough and wide-ranging review of equipment, tactics, training and other aspects of policing serious disorder. He will be publishing a report on this at the end of the month, which will confirm that there were significant shortcomings in the police operation at Tottenham. The Commissioner has acted to implement the recommendations. Officers at senior and middle management level have received further intensive training, more protective equipment has been acquired and improvements are being made in tactics and communications. He has put to me recommendations for the provision of ballistically protected vehicles, long batons, more radios and more transit vans. These are being considered urgently, and I shall announce my decision when the report of the review is published. Because of the long lead times for the ballistically protected vehicles I have asked George Younger if the Army can lend the Metropolitan Police eight vehicles.

9. Provincial forces have also been reviewing their preparedness. The Chief Constable of the West Midlands published a report on the Handsworth riot last October. There, and in a number of other provincial forces, action has been taken to acquire more protective equipment, to improve mobilisation plans and to give more training. The Greater Manchester and West Midlands forces now possess plastic baton rounds. Urgent action is also being taken to ensure that lessons learned from the Commissioner's review are disseminated nationally.

10. As you will know, I have also introduced and announced new arrangements for the provision of plastic baton rounds and CS. Some police authorities had refused to allow Chief Constables to acquire such equipment. The new arrangements ensure that Chief Constables can obtain it, if their assessment of need is endorsed by HM Inspector of Constablary. Similar arrangements have been made to ensure that officers can receive the necessary training. The equipment is intended for use only in the last resort where conventional police tactics in dealing with violent disorder

have failed or would do so if tried. But any repetition of the murderous violence at Tottenham will almost certainly lead to the use of baton rounds for the first time on the streets of Britain. We are still evaluating water cannon. The two prototypes built here have not been a success. The evaluation would have ended in rejection by the police, but I was anxious that before total rejection they should take seriously the German experience, and this is now being studied.

PREVENTING RIOTS

11. We must also seek to reduce the likelihood of further disorders by building good relations between the police and local community leaders and by greater co-operation between the police and other local agencies. I chaired a useful seminar about this with senior chief officers of police in February. This has since been followed up by a meeting between chief officers and senior officials from various Government Departments, to strengthen relationships further. The heightened profile we are giving to crime prevention also provides opportunities to involve police and other agencies in constructive activity to help inner city communities.

12. There are two important aspects here. First, the police need to secure the support of moderate and influential elements in the local community, and to isolate the law-breakers. I believe that the considerable efforts which the police had been making in this direction in Brixton and Handsworth paid off in helping to restore the situation, even though regrettably they did not prevent the riots. The police must press on with these efforts. Second, police action in these areas needs to be highly professional, and requires judgment and skill on the part of local officers. Unprofessional and poorly judged police action can provide the spark which lights the tinderbox.

13. After last autumn's riots, particularly the violence at Broadwater Farm which had had a bad effect on police morale in London, there was a danger that the police might give up trying to create good relations in difficult areas and concentrate exclusively on the punitive response to trouble. This has not been allowed to happen. Chief officers at the seminar and elsewhere have reasserted their commitment to policing difficult areas in ways which win the support of reasonable people, and which are as effective as possible in practical terms. Striking the right balance is difficult and police skill and subtlety is bound to vary. I have emphasised in Parliament and to police audiences that "no-go" areas are not acceptable. Equally the answer does not lie in hard-line policing which could forfeit the support of local people and lead to avoidable disorder. I have stressed that the policy must be one of sensible - rather than sensitive - policing.

GENERAL APPROACH

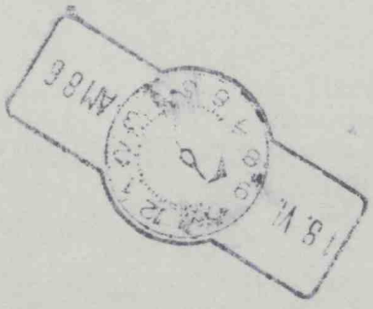
14. But the police cannot respond to the problems of the inner cities on their own. They need the support and assistance of local people and other agencies. We also need to take sensible steps to try to prevent the pool of disaffected youth in these areas being constantly replenished. The hard core may be beyond redemption but we need to do all we can to ensure that those on the fringes are usefully occupied. It is one of the main aims of the eight areas initiative led by Kenneth Clarke to improve the "life chances" of inner city youth. As you know, I am particularly concerned that we should be taking steps to improve the "life chances" of young blacks who are especially disadvantaged as a result, in part, of continuing racial prejudice, particularly in employment.

15. It is important that we continue to stress the positive action which we have taken in the inner cities, and that we should continue to encourage the police to be positive and constructive. At the same time we must make it clear that any disorder which does occur will be met with a firm and resolute response from a police force which is now better equipped and trained to handle it. In public statements I shall continue to emphasise that our response to the problems of the inner cities is rounded in this way.

16. I am copying this minute to the Lord President, the Chancellor of the Exchequer, the Secretaries of State for Defence, Employment, Education, Enironment, Scotland and Wales, the Paymaster General, the Chancellor of the Duchy of Lancaster and Sir Robert Armstrong.

Douglas Hurd.

17th June 1986



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10 DOWNING STREET

From the Principal Private Secretary

Sir Robert Armstrong

TRAVELLERS

The Prime Minister has read and studied your minute of 13 June which gives consideration to the action that might be taken to deal with groups of travellers of the kind which have given trouble in the New Forest. The Prime Minister is extremely grateful for the very thorough consideration which Permanent Secretaries have given to this difficult subject. She believes that these issues now need to be discussed quickly by the Ministers concerned. As you know, she would have liked to chair the discussion herself, but an early discussion with her in the chair does not seem a practical proposition for the next two weeks or so. The Prime Minister would therefore be grateful if the Lord President could chair an early meeting to consider your minute, and then bring a report to Cabinet.

I have already warned the Lord President's Office.

—

NLW

16 June, 1986.

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Prime Minister

Your diary next week is impossible and not much better the following week. Shall I ask the Lord President to take the meeting and bring a report to an early Cabinet?

Yes please

N.L.W. 13.6.

Ref. A086/1703

PRIME MINISTER

Travellers

At Cabinet on 5 June (CC(86) 22:1) it was decided to give urgent consideration to the action that might be taken to deal with groups of travellers of the kind then giving trouble in the New Forest. The Home Secretary sent you a minute on 6 June and you indicated that you would like to consider the matter at an informal meeting of Ministers before it goes to Home and Social Affairs Committee (or back to Cabinet). You agreed that I should, in consultation with the Departments concerned, prepare a note as a basis for Ministerial discussion.

2. As a first step, I asked Departments to let me have a note on their particular concerns. In the interests of speed, I attach these as they stand. I have also had a meeting with the Permanent Secretaries concerned and this note takes account of that.

Present Position

3. The group of travellers in the New Forest was efficiently broken up by the Hampshire police on 9 June. The police (who were acting in support of the sheriff in the execution of a writ of possession obtained by the Minister of Agriculture on behalf of the Forestry Commission) carried out rigorous checks on the roadworthiness of the vehicles in the convoy, impounding those which were found to be unroadworthy. This had the effect of depriving most of the travellers of their transport. Most of them accepted the help of the local social services departments, and most of these were given travel warrants to take them away from the area. The remainder set off on foot towards

Glastonbury with a police escort. The whole operation was carried out in close co-operation between the police, the Department of Health and Social Security, and the local authorities in the area.

4. As a result of this action, there is now no congregation of travellers anywhere in the country on the scale of the New Forest group. Smaller groups do remain, however, and this week's events are not the end of the story. The travellers, who have access to legal advice, will probably try to congregate again. There is a festival at Glastonbury on about 19-20 June, which may give them a focus; and there may still be an attempt to assemble at or near Stonehenge to celebrate the midsummer solstice.

Immediate Action

5. Many of the steps that could be taken towards a long-term solution would require primary legislation. Although there is a possibility of taking some of these steps this Session the earliest opportunity to move an amendment to an appropriate Bill would be July. I have assumed that Ministers would first wish to identify the action that can be taken and publicised immediately, as follows:

a. Preventive Action by the Police

The operational lessons learned in the New Forest incident, particularly emphasising good intelligence and prompt action to prevent a congregation of large groups, are being disseminated to police forces, through the Association of Chief Police Officers. The annual meeting of the Association last week provided a useful opportunity for this, and for discussion among police forces.

b. Speeding up Civil Redress in Cases of Trespass

At my meeting I asked the Lord Chancellor's Department and the Law Officers' Department urgently to prepare a note on the best ways of rapidly exploiting the existing civil law in order to rid oneself of actual or threatened trespassers. Mr Attwell's long ordeal, in comparison with the quick redress obtained for the Forestry Commission, was one of the most telling features of the recent episode. This note could be made available to landowners through the National Farmers' Union and the Country Landowners' Association and it should be ready soon (within about a week).

c. Social Security Fraud

In the light of experience last year, the Department of Health and Social Security has already prepared and implemented measures to counter fraud by these groups. These are described at Annex F. They appear to be working well. Liaison arrangements between Department of Health and Social Security offices and the police have been improved in the light of recent experience, and are also reported now to be working well, and much valued on both sides.

Longer Term Action

6. Most of the measures possible would require primary legislation. Action aimed exclusively at the travellers would need to be based on definitions that will stand up to both Parliamentary scrutiny and possible later action in the Courts.

7. The constraint of definition is a particular difficulty. As the Cabinet discussion recognised, and as has become increasingly clear since, these groups are not of a homogeneous

and easily definable nature. At the core is a group of people who have adopted travelling as a way of life and have been following this course for some ten years or more. They often consist of stable family units and derive an income from selling jewellery and other trinkets or from casual work. The Department of Health and Social Security confirm that some 30-40 per cent of the New Forest group were not attempting to claim social security benefits. There is an obvious close affinity to gypsies and other more traditional travelling groups (travelling showmen, for instance). Around this core is a more troublesome mixture of single young people spending weekends or short spells away from a home base, and criminal and quasi-criminal elements.

8. The main issues appear to be as follows:

a. The Home Secretary's minute, which was written before the action by the Hampshire police, indicated four possible extensions of the law relating to trespass, and I understand that he would not wish to discard any of these options at this stage. For present purposes, however, consideration is being focussed on the Home Secretary's option (d) (which my meeting thought the most promising) - a new offence of refusing to leave private land at the request of the owner if the person concerned had entered as a trespasser for the purpose of residing there. A possible vehicle for a new provision of this kind would be the Public Order Bill now in the House of Lords. An amendment to that Bill could not be considered in the House of Commons until the spill-over, however, and unless it were prepared by mid-July it could not even be introduced in the House of Lords until the spill-over. There is a Criminal Justice Bill in the next Session, but including this provision in it could widen its scope.

The problem will be to ensure that the definitions in a provision of this kind can be so framed as not to catch reputable groups that would create political problems and jeopardise police acceptance of the new provision. Inserting the idea of mass trespass in the Home Secretary's proposal might help (though the possible need to apply the provision to public as well as private land would pull in the other direction). Further work will need to be done before the political balance of the proposal can finally be assessed.

There may be a particular problem to do with the legislation on gypsies. The way this legislation works is set out in the Department of the Environment's note at Annex A. Gypsies are defined in the Caravan Sites Act 1968 as "persons of nomadic habit of life, whatever their race or origin, but not including members of an organised group of travelling showmen, or of persons engaged in travelling circuses".

One possible result of stepping up action against the travelling convoys is that some of them at least could successfully claim that they are within this definition of gypsies, and hence entitled to the use of sites under the 1968 Act. Alternatively, there may be a risk that any effective new provisions could be exploited against gypsies, who are not generally popular with the local authorities. 10,500 gypsy caravans were reported by local authorities in the January 1986 return: one third of them were on unauthorised sites. The policy on gypsies - reached after much Parliamentary discussion - has settled into an uneasy truce all round: Ministers will want to weigh the risk of destabilising it.

b. Roadworthiness of Vehicles

The Hampshire police who impounded the travellers' vehicles relied on powers in the Criminal Law Act 1967 to use reasonable force to prevent the committing of a criminal offence. There is some doubt whether that interpretation of the law is correct and I understand there is a possibility of legal action being taken against the police by the individuals concerned. Whatever the outcome of this, the question is whether new powers to impound unroadworthy or unlicensed vehicles are needed. (The scope of the powers to prohibit the use of heavy goods vehicles and public service vehicles may also be relevant.) Such powers could not be confined to travellers of the kind now being considered: they would affect the whole of the public.

Road traffic law, and specifically the need for any new types of penalty, is currently being considered by the Road Traffic Law Review, chaired by Dr Peter North, which is due to report at the end of the year. One way to make quick progress on the present question without ignoring the Review would be to ask Dr North for an early interim report on the adequacy of existing powers to deal with unlicensed or unroadworthy vehicles. Any way of handling the matter, however, will have to take account of the possible legal action against the Hampshire police and the need to avoid undermining their case in advance. Primary legislation would be needed to make any significnt changes in this field: there is nothing on the subject in the legislative programme agreed by Cabinet for next Session.

c. Education

The question of providing education for the children of the travellers was touched on in Cabinet. The facts are set out in the Department of Education and Science's note at Annex G. No new measures are being proposed here and I, for my part, cannot discern any special action that the Government would wish to be seen to be taking on this aspect.

d. Social Security

The question of policing claims under the present arrangements is dealt with in paragraph 5(c) above. The question beyond this is whether more substantial action should be taken to bar people of the travellers' lifestyle from access to any parts of the social security system. Any significant change to their social security entitlements would involve primary legislation beyond the current Social Security Bill and - given the problems of definition - would appear to be likely to catch groups of people far beyond the travellers themselves. The main distinguishing feature of the travellers in this context is the unlikelihood that they are genuinely available for work. This represents a problem of enforcement rather than a question of social security law as such. It may be most appropriate to pursue it in the context of the studies that the Secretary of State for Employment is already carrying out into testing availability for work.

8. I am sending copies of this minute to the Lord President, the Lord Chancellor, the Home Secretary , the Secretaries of State for Wales, Social Services, Environment, Employment, Education and Science, Scotland and Transport, the Lord Privy Seal, the Chancellor of the Duchy of Lancaster, the Minister of Agriculture, Fisheries and Food, the Attorney General and the Chief Whip.

RTA

ROBERT ARMSTRONG

13 June 1986

Annexes

Notes by

A The Department of the Environment

B. The Ministry of Agriculture, Fisheries and Food

C. The Forestry Commission

D. The Law Officers' Department

E. The Department of Transport

F. The Department of Health and Social Security

G. The Department of Education and Science

H. The Welsh Office

I. The Scottish Office

DEPARTMENT OF THE ENVIRONMENT ANNEX A

TRAVELLERS : PROBLEMS AND ACTION WITHIN DOE RESPONSIBILITIES

1. The Department of the Environment's interest in the 'travelling hippy' problem falls under four headings:

(i) local authorities' responsibilities to provide accommodation for certain categories of people - particularly the extent to which travelling hippies are within the scope of local authorities' powers and duties in relation to gypsies and the homeless;

(ii) DOE and local authorities as owners and managers of land - on which travellers might establish camps;

(iii) protection of legitimate countryside interests - the need to prevent any new legislation designed to deal with specific 'hippy' problems from adversely affecting the interests of ramblers and others;

(iv) protection of the environment and the heritage - a general concern to safeguard the countryside and historic sites from 'hippy' damage.

2. Cabinet has decided not to pursue the possibility of providing permanent sites for groups of travellers, consequently DOE's main interest is the negative one of ensuring that these responsibilities - particularly those relating to gypsies - do not inadvertently land local authorities with the job.

LOCAL AUTHORITY RESPONSIBILITIES

3. Gypsies. The Caravan Sites Act 1968 puts a duty on local authorities to provide caravan sites for gypsies. When an area is designated as having adequate sites, gypsies camping on land without permission are liable to fines and can be removed by the order of a magistrates court. The Act was not intended to cover people like the travelling hippies. Local authorities already have great difficulty in finding sites for 'genuine' gypsies, and it would be even more difficult and expensive for them to

find sites for hippies with whom gypsies would not in any case wish to share. Unfortunately the definition is so general that some members of the Peace Convoy may be able to argue that they meet the criteria and might challenge in the courts any decision that they do not.

4. If some of the hippies should claim the Act's protection, we would want to consider amending the 1968 Act to exclude them. In the short term we have to reply to a letter to the Prime Minister on this point from the Director of the NCCL which is advising the convoy. It will unfortunately be necessary in this to qualify the Home Secretary's statement that the convoy did not come within the gypsies legislation.

5. There is one other interaction with the gypsies legislation. If the proposed new powers on trespass made it unnecessary for authorities to rely on designation to evict gypsies from illegally occupied land, we should lose an important incentive to the provision of proper sites.

6. Homeless. It is also possible that some members of the convoy would qualify for accommodation under the homelessness provisions of the Housing Act 1985. As with the gypsies legislation we would not want to look to this legislation as a way of solving the hippy problem. Local authority housing resources are already under strain and another addition to the rising number of homelessness applications and acceptances would add to the burden on local authorities and to the public criticism the Government's housing policies are receiving as a result. But the chance of their succeeding in claiming protection under the legislation, and the likelihood of their claiming its protection, are rather less than in the case of the gypsies legislation.

7. Under the homelessness provisions (Part III of the Housing Act 1985), local authorities have a duty to secure accommodation for people who are unintentionally homeless and in priority need - essentially families with young children, pregnant women, or those who are vulnerable as a result of old age, mental illness or some physical disability. If someone fits into the priority need category but has become homeless intentionally, the local authority must secure accommodation for him for as long as he

reasonably needs to find accommodation for himself and give him appropriate advice and assistance. The Act includes people who live in caravans or converted buses. On this basis any one of the hippies in the Peace Convoy could apply to a local authority for accommodation under the homelessness provisions. Whether they would qualify would depend on the particular circumstances. They would need to show that they genuinely had no place to park and that their homelessness was not intentional. Both could be difficult to prove, although not impossible.

DOE AND LAs AS LANDOWNERS/MANAGERS

8. DOE, through the Historic Buildings & Monuments Commission, has responsibility for land which, like Stonehenge is particularly attractive to the travelling hippies. As managing agent through the PSA for other government departments, principally the Ministry of Defence and Department of Energy, it also has responsibility for substantial areas of land on which hippies may try to camp. Local authorities are in a similar position as landowners. On the MOD estate, in addition to civil applications through the Courts, it is also possible to use the military lands byelaws under which, if the hippies camp or light fires on MOD land, they could be arrested by MOD police and have their vehicles confiscated.

9. The main question here is a short term one of how quickly we should move when hippies occupy government as opposed to private property. There may for example be a case for moving a little more slowly if there are advantages in avoiding swift forcible eviction by the police in favour of more orderly dispersal. There is a current case on the Department of Energy estate where 20 vehicles of the Peace Convoy are camping and where a redundant oil storage depot is potentially at risk. The application for a Writ of Possession was granted on 11 June in the Reading County Court and will be executed on 23 June.

10 Local authorities have the same rights to protect their property through the civil courts. But they can also, once a trespass has begun, license the trespasser to occupy the dwelling or any other land without conferring security of tenure on him.

PROTECTION OF LEGITIMATE COUNTRYSIDE INTERESTS

11. There are some 300 million "walking visits" to the countryside a year. The Ramblers' Association have already expressed strong concern that any change to the traditional approach that trespass is a matter for the civil law might have untoward effects for their members. The Countryside Commission have equally made representations urging the need for a fully considered approach in preference to any swift attempt to seek to amend the current Order Bill. If new powers on trespass are sought to deal with the hippy problem, we would therefore want to ringfence them as far as possible.

PROTECTION OF THE HERITAGE AND THE ENVIRONMENT

12. Heritage sites like Stonehenge are particularly vulnerable to damage from the travelling hippies, and particularly attractive to them. Responsibility for safeguarding monuments, in particular Stonehenge, rests with the Historic Buildings and Monuments Commission. They have taken measures to ensure the physical protection of the site, and to deter individuals from invading it by taking out injunctions against named individuals. They have worked in close concert with the National Trust about the problems around Stonehenge.

13. In the longer term we may need to consider special arrangements to cope with the special attraction of annual events like the summer solstice at Stonehenge. The question is whether it would be possible for the responsible local authority to make arrangements with private landowners or relevant government landowner for the provision of a temporary site, without encouraging the travellers to use such arrangements as the opportunity to get a permanent site or stay together in larger groups throughout the year.

CONFIDENTIAL

TRAVELLERS

Sir Robert Armstrong's letter of 6 June to Sir Brian Cubbon asked Departments to prepare a note setting out the problems created by travellers in their area of responsibility, and urgent action that it would be possible for them to take to deal with them. This note deals with the issue insofar as it affects the owners and occupiers of farm land.

Current consideration of the problem followed the invasion of a farm at Lytes Cary near Yeovil in Somerset by the so-called peace convoy. The farmer was forced to take action under Civil law since trespess is not a criminal offence. Quite apart from the damage that was caused he was concerned at the time it took him to obtain a possession order and the considerable legal costs he incurred.

Since then the convoy has moved on to Ministry-owned land in the New Forest and has been the subject of further court action. Although we did not face the same problems as Mr Attwell in quickly obtaining a possession order, it must be recognised that a Government Department has money and resources not usually available to a private land owner.

There is no doubt that since the majority of the land in the UK is farmed, farmers are in a vulnerable position where mass trespass is concerned and in some cases, particularly if a small farmer is affected, their livelihood could be threatened. We understand that, following a meeting last week with Mr Mellor and Mr Shaw, the NFU have put forward three suggestions for offences to be added to the Public Order Bill:

1. Refusal by eleven or more people to leave private land when asked to do so by the owner occupier;

2. Trespass on private land with the intention of depriving the owner or occupier of the use or enjoyment of the land;

3. Trespass on private land in a vehicle.

They do not now consider it would be practicable to provide permanent sites, though they still feel it might be possible to identify temporary sites on public land. They are also anxious that everything should be done to ensure that a private individual can obtain a possession order quickly and inexpensively. Further streamlining of the procedures would help to relieve the burden on the farmer with limited resources.

The Country Landowners' Association have been pressing for Clause 14 of the Public Order Bill to be extended to private land to enable the police to take preventive action in respect of assemblies on such land. They have also been urging the Home Office to review the law on compensation so that landowners can be compensated from police authority funds for damage caused by riotous assembly to land that is not connected with buildings. Apart from these matters, they have pressed for similar changes to the law of trespass, and to the procedures for obtaining a possession order, that the NFU are seeking.

A solution on the lines advocated by the Home Secretary in his minute of 6 June to the Prime Minister would go a considerable way towards meeting the legitimate fears expressed by the representatives of the land owners and occupiers. It appears to be the minimum that should be done to deal with this problem. There are no specific measures that could be taken under agricultural law.

Ministry of Agriculture, Fisheries and Food
June 1986

TRAVELLERS

1. The Forestry Commission, with the largest estate under one management in the country and with a general policy of welcoming the public onto its land, is particularly vulnerable to invasion of travellers or so-called "hippies".

Background

2. During the summer months in Southern Britain attention is directed annually to the activities of these travellers. Groups of travelling people living separately through the winter get together in large groups during the summer months. What started in the '70s as small peaceful gatherings at ancient monuments and on fair grounds has developed into a situation where very large numbers of people congregate and included in these numbers are more extreme groups - violent, drug pushing, anarchist, fascist elements are all present.

3. Between and during festivals, published in news sheets, these people, travelling in vehicle convoys, search out squatting grounds and spend an average of 28 days at any one site before being moved on by the force of law. As far as Stonehenge is concerned they display great persistence in their desire to get there during June, but other regions of the country are vulnerable.

4. The Forestry Commission is especially vulnerable, with well publicised picnic areas and campsites served by good access, a plentiful source of fuel and often with water and toilet facilities.

Forestry Commission Experience

5. In 1985, and again this year, the Commission has suffered major invasion. The most recent invasion, at Stoney Cross in the New Forest, is well known to the meeting but in 1985 there was also an incident at our picnic area at Savernake Forest in Wiltshire involving over 200 vehicles. High Court action to remove the travellers was taken and following from this experience a note was circulated to Forestry Commission staff which stood in good stead as a basis for action at Stoney Cross. A copy of this advice is appended for interest. It will be refined as a result of our most recent experience.

6. On the legal front, the Commission did not find it difficult to obtain an order for possession - although it did help having staff with experience of the 1985 invasion. Clearly it would be more difficult for a private owner with limited resources. Following the Savernake incident the Commission, anxious to avoid a repetition, made approaches to the Home Office to discuss the matter. However, occurred the inner city riots and the planned meeting never took place. This new initiative is therefore welcomed by the Commission.

New Measures

7. A number of proposals were set out in the letter dated 6 June from the Home Secretary to the Prime Minister. As far as new developments are concerned, the Commission would favour the version put forward by

the Home Secretary namely, that there should be an offence to refuse to leave private land at the request of the owner or his agent if the person concerned had entered as a trespasser for the purpose of residing there for any period. The Home Secretary suggested a refinement that the trespass would have to involve a vehicle as well as a person. It is for consideration whether, in addition, some other limit should be stipulated - for example by specifying a time limit (eg 24 hours) beyond which action would be taken.

8. However, whatever legal remedy is proposed at the end of the day, we feel it is essential that adequate powers are given to the Police to be able to evict the travellers. Unless the offence is made an arrestable one the Police will be powerless to take action.

9. As envisaged by the Home Office this new offence would apply only to private land. Public land would presumably be covered by the changes which are proposed to the Public Order Bill to confer new powers to the Police to control assemblies on public land. However for this to work one of four critical tests (serious disorder, serious damage, serious disruption or intimidation) will have to be met. The success of this measure must be doubtful in view of the Home Secretary's admission at point (a) of his letter that the Convoy for much of the time does not breach any one of the tests.

10. The Commission would therefore favour extending the proposed new offence to cover Crown land.

Vehicles

11. The Home Secretary in his letter of 6 June states that the Police do not have powers to impound unroadworthy vehicles. This contrasts with the Commission's experience at both Savernake and Stoney Cross where vehicles have been impounded by the Police. It is felt that this point may require clarification.

Forestry Commission
10 June 1986

PP.
A workmen like note
clearly worthy with
experience.
N.C.J

APPENDIX

ADVICE AND RECOMMENDATIONS

RELATIONS WITH SQUATTERS

1. Squatters include Hippies, Greenpeace, Green Desert, Romany Guild, Peace Convoy, Rainbow People. Some have high ideals, some are savage, all are irresponsible with no respect for property or the normal rules of society.

2. There is no overall leader, but a political figure is used for PR. Public sympathy is enormous and concerned people including Salvation Army, RSPCA, WVS, Quakers visited the camp (specifically not with FC permission).

3. With such a variety of people, moods vary and range from surly through to ecstatic.

4. Rapport is difficult; false trails are laid and assurances, statements and promises are made in order solely to gain time and prevaricate. They are never fulfilled.

RELATIONS WITH MEDIA

1. Press (daily and local), News agencies, Radio (national and local) TV (national and local) were present throughout although their numbers fluctuated according to expectations for the particular day.

2. Interviews with squatters were of primary importance to the media.

3. We held news conferences to ensure that all knew of our intentions eg proposal to go for writ of possession, proposal to evict etc.

4. Numerous telephone calls were made to Forest District and Conservancy Offices.

5. The need for close liaison with Public Information Division was highlighted, as a major Hippy occupation is national news, and the Commission's plight and case for repossession had to be put across to the national media.

RECOMMENDATIONS

1. Positive efforts must be made to put over the landowners' view.

2. Public Information Division, Conservancy and Forest District mus liaise daily to ensure that the party line is similar at all levels.

RELATIONS WITH POLICE

1. Local police liaison is usual throughout the year but on these occasions the police operation is controlled from an Operations Room at Police HQ. The Commander may call upon resources outside his own county and the monitoring police operation is large scale.

2. It is therefore essential to establish liaison at a high level and we were in constant touch with the Assistant Chief Constable and his Operations Commander.

3. Police tactics are based on "worst case scenario". FC back-up facilities ie guides, machines, access information.

4. When the convoy leaves the police have no hint of their destination although rumours abound. It is essential to maintain close contact with police even after departure.

RELATIONS WITH SOLICITOR

1. We had excellent service from Mike Thomas at Whitehall, both in Court and in the matter of advice.

2. Three documents are required. The Court Summons, the Order of Possession, the Writ of Possession. All are required urgently to avoid delays. The Sheriff's Officer cannot act without the writ.

3. All documents were "against persons unknown". This was valuable in order to avoid the prosecution of individuals who might claim they could not be present in Court on the day in question. This was possible, however, because we genuinely did not know names of persons involved. It is important not to try to find out names, but if names are known, and known to be known, then these persons must be named in documents 'with other persons unknown'. The MOD were unsuccessful recently in an action for a Possession Order because no person was named, whereas the plantiffs were shown to have known some names.

RECOMMENDATIONS

1. Act immediately to obtain the Writ of Possession.

2. Use couriers (or data post) to send documents back and forth.

3. Do not name people in the summons unless you have to.

4. Act decisively in accordance with the writ ie do not wait and hope squatters will go without the need to call in the Sheriff's Officer.

5. Use local solicitor for swearing affidavits etc.

RELATIONS WITH PUBLIC BODIES

1. Environmental Health and Community Health Department of District and County are the principal health interests involved.

2. Release, an emergency legal advice service, and Festival Welfare Services Trust, a charitable organisation to co-ordinate welfare services on festival sites both commercial and legal, are usually present. They are sponsored by Home Office.

RECOMMENDATIONS

1. Distinguish between the statements of local politicians and those of professional medical men re health matters.

2. Keep in close touch with Release and the Festival Welfare Services Trust who are prepared to co-operate, particularly in the case of missing persons who are reported daily by anxious parents.

3. Do not allow DHSS/Post Office to pay out benefit monies on site.

TRAVELLERS: INJUNCTIONS

1. The civil law provides two main methods of dealing with itinerant trespassers: an injunction to restrain named individuals from entering upon particular land, and proceedings under Order 113 RSC to recover possession from trespassers. Although the latter is a comparatively speedy procedure there is an inevitable delay in obtaining the Order which allows the travellers to establish themselves on land from which they have to be evicted, usually by force. The injunction is therefore potentially the more effective remedy particularly as it may act as a deterrent in declaring the unlawfulness of any trespass and it may assist the police in steps they take to prevent a breach of the peace. The police are not empowered to enforce the injunction as such - this is a matter for the civil law.

2. The Courts have been moved to grant injunctions to restrain mass trespasses on at least three recent occasions. In 1983 the Welsh Office and seven Welsh local authorities successfully applied for injunctions in their capacity as landowners and highway authorities in the County of Dyfed. The Court was satisfied on the evidence presented by the Welsh Office, as highway authority for trunk roads, that apprehension of obstruction of the highway justified an injunction covering not only the immediate vicinity of the travellers encampment but extending to the whole of the County of Dyfed. It was not prepared, however, to grant an injunction extending to the whole of Wales.

3. Two other cases, in 1985 and 1986, related to land in the vicinity of Stonehenge where members of the Peace Convoy had threatened to hold a

Festival to celebrate the Mid-Summer Solstice. The plaintiffs to this year's application included the National Trust, Amesbury Town Council, and various local landowners including the Forestry Commission and MOD. The names of the potential trespassers were supplied by the police who gave evidence at the hearing (and who were keen that an injunction should be obtained), and the Court had little hesitation in granting an injunction restraining some 40 named defendants from entering or remaining on land within a radius of approximately 3 miles from Stonehenge.

4. Although it would be open to landowners, highway authorities, and others to seek similar injunctive relief covering their areas there are some practical difficulties to be overcome. Unlike the recovery procedure set out in Order 113 (which was specifically designed to pro vide for the eviction of unknown squatters) an application for an injunction must be sought against named defendants; and it is thought probable that the Courts would decline to allow proceedings to be brought against representative defendants, for example, against a named person "and members of the Peace Convoy". This may prove to be a substantial obstacle for any application for an injunctive relief particularly since the convoy has been broken up and the presence of certain notorious persons amongst disparate groups of travellers cannot be guaranteed. Moreover the direction taken by the various groups may not now be known, so that it may prove impossible to gather sufficient evidence of apprehended trespass before it actually occurs.

5. In these circumstances we have considered whether the Attorney General might be advised to consider seeking injunctive relief ex officio in his capacity as guardian of the public interest.

6. The Attorney General as plaintiff would have three advantages: he would not have to establish an interest in a particular piece of land or responsibility for a particular highway, he could in theory apply for an injunction relating to a wider area than any private plaintiff, and he would be in the best position to gather the evidence necessary to support the application.

7. Treasury Counsel has, however, advised that the Courts would be very unlikely to grant such an injunction at the suit of the Attorney General, principally because trespass is by its very nature a private law wrong actionable at the suit of a landowner, or a person having an interest in land, and by nobody else. The Attorney General could perhaps apply for an injunction to restrain a public nuisance but there would be difficulty in showing that a particular gathering would be sizeable enough to amount to a public as opposed to a private nuisance until trespass and damage had actually occurred.

8. Even if the Court did permit the Attorney General to bring proceedings it would be reluctant to extend the area of its application beyond, at most, a County so that further applications would have to be made each time the travellers crossed a County boundary; and the Judges would become increasingly relutant to grant injunctive relief at the suit of the Crown unless they were

satisfied that serious attempts were being made to find a solution to the problem of travellers.

9. Our conclusion is that an action by the Attorney General though superficially attractive is unlikely to be successful. An unsuccessful application by the Attorney would of course be most damaging. If the Attorney were successful there would be pressure on him to apply for Orders committing those in breach of the injunction for contempt, as soon as there was evidence of breach. Preventative action may best be taken by a combination of plaintiffs including local authorities, landowners and Government Departments covering clearly defined areas where there is a real risk of mass trespass.

10. On present evidence Glastonbury appears to be the most likely alternative site for the Summer Festival and it may be sensible to take action now to put in hand the procedures for obtaining an injunction to restrain trespass on land in the vicinity.

LAW OFFICERS' DEPARTMENT

10 June 1986

DEPARTMENT OF TRANSPORT: PROBLEMS CREATED BY TRAVELLERS AND POSSIBLE ACTIONS AND MEASURES TO BE TAKEN

Vehicles

1. Vehicles were impounded on 9 June using the powers in section 3 of the Criminal Law Act 1967 to use reasonable force to prevent the commission of a criminal offence. This use of the general 1967 Act may be open to legal challenge.

2. In addition there are the following specific powers:

i. prohibition of unroadworthy vehicles - HGVs under the Road Traffic Act 1972 and PSVs under the Public Passenger Vehicles Act 1981;

ii. powers of prosecution under the Vehicles (Excise) Act 1971 for the offence of keeping or using an unlicensed vehicle on the public road;

iii. powers of prosecution under the Road Traffic Act 1972 for using on the road a vehicle for which there is no policy of insurance to cover third party liability;

iv. powers of prosecution under the Road Traffic Act 1972 for the offence of using certain vehicles without an MoT test certificate.

3. None of these specific powers enables the authorities to move or impound a vehicle. Immobilisation of vehicles could be counter-productive. There are two additional powers which may be worth considering:

a. It might be useful to extend prohibition powers to private cars, and this is something being considered by the Road Traffic Law Review.

b. Of more significance could be powers to tow away or impound vehicles, and this is something which the Department has been pursuing in relation to unlicensed vehicles. The Home Office have, however, not so far been able to support this, because of the potential extra burden on the police. But they have been prepared to accept a limited experiment confined to London whereby an evasion report would automatically be sent through to the Department if an illegally parked vehicle which was clamped or impounded was also found to be unlicensed.

4. On insurance, although the Department is keen to see that motorists meet the statutory requirement, the lack of it in the small numbers at issue in the convoy cannot be said to raise significant problems for the Department. Any power to impound would have to be general, and the Department and the insurance industry might welcome that as an encouragement to insure. From recent police resistance to additional involvement in enforcing insurance generally, it seems unlikely that the police would be willing to contemplate such extra work.

5. General powers to remove or detain vehicles are contained in sections 99-103 of the Road Traffic Regulation Act 1984 and sections 3-6 of the Refuse Disposal (Amenity) Act 1978, together with the Removal and Disposal of Vehicles Regulations 1986. The powers, which are complex, broadly apply to vehicles which remain at rest on a road in such a way as to cause obstruction or danger to other road users. A constable may remove a vehicle, and charges may be made for removal and vehicle storage.

6. Under section 104 of the Road Traffic Regulation Act 1984, a clamp may be fitted "where a constable finds on a road a vehicle which has been permitted to remain at rest there in contravention of any prohibition or restriction imposed by or under any enactment". Supplementary provisions in sections 105 and 106 restrict clamping in certain circumstances.

Access to Highways

7. Under the Highways Act 1980, a person may be convicted for wilful obstruction of free passage along a highway. Highways Act powers have not been as useful as action through the High Court in circumstances such as those of the peace convoy. In the case of the Greenham Common women, for example, the Department was advised to seek a possession order in the High Court when it required possession of highway land to carry out junction improvements. Under Order 113 of the Rules of the Supreme Court, the Department brought proceedings against unnamed persons for possession of a specific area of land which was required for the roadworks.

DEPARTMENT OF HEALTH AND SOCIAL SECURITY ANNEX F

THE PEACE CONVOY - SOCIAL SECURITY ASPECTS

1. The problems of dealing with the Convoy were first felt in June 1985 when, after a major confrontation with the police at Savernake near Stonehenge, the resultant publicity attracted many hundreds of hippie recruits and by the time the courts issued an injunction, a group of about 1000 were forced from Savernake onto the chalk downs above the Westbury White Horse. This number soon swelled to 1500. Several hundred of these hippies claimed benefits at the DHSS local office. They started dispersing at the end of June 1985 but smaller groups caused serious problems for the Department in a number of areas - principally at Exeter, Torbay, Bath and Carmarthen.

2. Following these experiences, a working group was established, including representation from the Home Office and Department of Employment, and reported in March 1986. The report, though not published, was not confidential (contrary to reports in the Guardian!) and copies went to all regional offices, to local offices in areas affected and to the departmental trade unions. Its recommendations were implemented at once.

PROBLEMS AND MEASURES TAKEN

3(a) Consistency of treatment It was found that different offices were applying different methods of assessing claims. Advice has been issued to prevent this in future.

(b) Verification of identity and duplicate claims There was evidence of quite blatant fraud - false names, stolen identifying papers, fictitious dependants etc. Staff have been instructed to apply strictly rules about evidence of identity for claimant and his/her dependants. As a result some 10 per cent of claims have been rejected. A regional* index of individual claimants has been set up to prevent people claiming at the same time at different offices, to identify details that might indicate duplicate claims by use of false names, and to provide up to date information for the next office when the convoy moves on.

(c) Accommodation and Staffing Local offices face dramatic increases in claims, stretching available resources and adversely affecting normal business. On top of this the hippies are rowdy, often violent to property and

* DHSS Wales and South West Region

refuse to be organised. Their behaviour is very intimidating. To counter this, claims are to be dealt with only at DHSS offices that have proper security screens and a small mobile team of volunteer interviewing staff has been established to move from office to office when the hippies move, firstly to facilitate fast clearance of claims but also to prevent fraudulent claims by the same interviewers always seeing (and therefore recognising) the claimants.

(d) Safety of Staff Visiting nomadic claimants at their campsites can be unpleasant and potentially dangerous. In future, whenever possible, claims are to be dealt with without visiting the site. Close liaison has been developed with the police to control the flow of claimants into offices and to prevent violence.

(e) Health The hippies are thought to suffer from a number of diseases including Hepatitus B. The advice of the Chief Medical Officer has been sought about this hazard but he has confirmed the only real danger of infection is by blood contact. Staff have been advised of simple precautions to prevent infection with impetigo and other diseases.

Liaison

(i) Contacts with the police have been improved to gain information about anticipated movements of the convoy so that offices can be forewarned. Information about named individuals is not exchanged, except where normal instructions permit, eg in fraud.

(ii) There has been close liaison with Department of Employment to facilitate better handling of claims.

(iii) Arrangements have been improved to advise local post offices about probability of heavy giro encashment.

SHOULD THESE HIPPIES HAVE BENEFIT?

4. "Common sense" says benefit should not be paid to these people who have opted out of society. However the benefit schemes are founded in law and benefit cannot be refused on discretionary grounds. We have considered whether it would be possible to regulate to exclude convoy people from the schemes but have concluded that this could not be done without a danger of preventing at the same time payment to groups who society thinks should be helped, at least to some extent - homeless persons, vagrants, ordinary caravan dwellers, gypsies in some circumstances, squatters and so on. Our efforts have therefore been concentrated on prevention of fraud, consistency of treatment and ensuring that people received the lowest rate of benefit that they would have had if claiming as unemployed in more normal circumstances.

CHILD CARE

1. Within the comprehensive network of child care legislation, which has as its main consideration the protection of children, there are a range of provisions which local authorities, with the assistance of the courts in appropriate cases, can use to safeguard the welfare of children who are in need of care and protection.

2. Under Section 2 of the Children and Young Persons Act 1969 there is a duty on local authorities to investigate reports that there are grounds for bringing care proceedings, ie that children are at risk and in need of care or control.

3. In an emergency situation when it is suspected that a child is being ill-treated or is in some other grave danger a place of safety order can be sought by application to a single magistrate under section 28(1) of the Children and Young Persons Act 1969. The order authorises the person named in it to detain the child in a place of safety for up to 28 days. A place of safety can be a hospital, a police station, a community children's home or other suitable place.

4. The Child Care Act 1980, Section 1 requires local authorities to make available such advice, guidance and assistance as may promote the welfare of children by diminishing the need to receive or keep them in care. This preventative power is widely used by local authorities to provide day nurseries, childminders, family centres and in exceptional circumstances, cash.

5. Section 2 of the Child Care Act 1980 gives the local authorities the right to receive into care any child whose parents are for the time being or permanently, prevented by reason of mental or bodily disease or infirmity or other incapacity... from providing proper accommodation, maintenance or upbringing.

6. The Government have announced their intention of publishing in the Autumn proposals for legislation on child care law. These proposals may include some modification of the investigating duty of local authorities and some improvements of the circumstances in which emergency orders are sought and made. However existing powers are broadly adequate to enable local authorities to protect children at risk, including those in travelling communities where their position is brought to the attention of the authorities. There are inherent practical difficulties in child care agencies exercising their child protection function in these circumstances. Provision of suitably equipped and identified sites can help authorities to establish arrangements to offer services and exercise some oversight.

7. The Department has part funded, through the Save the Children Fund, projects to assist gypsies/travellers to gain access to local health care and pre-school education services. Again this is facilitated where suitable settled sites are used.

THE PEACE CONVOY: NOTE BY THE DES

The Peace Convoy is the latest of a number of travelling groups, each with their own distinctive lifestyle and traditions. Gypsies are the largest group in the traveller community, which also includes circus and fairground people, and Irish and Scottish tinkers.

The Legal Background

2. Local Education Authorities (LEAs) have duties under Sections 7 and 8 of the Education Act, 1944 to ensure that efficient education is available to meet the needs of all children in their area. The Education Act, 1980 also requires LEAs to make arrangements enabling parents in their area to express a preference as to the school they wish their children to attend. The LEA's duty extends to all children residing in its area, and is not affected by the legal status of the camp site where the child may live.

3. Section 36 of the Education Act 1944 also imposes a duty on parents to ensure that children of compulsory school age receive efficient full-time education suited to their age, ability, aptitude and any special educational needs they may have, either by regular attendance at school or otherwise. LEAs have a duty under Section 37 of the Act to ensure that parents are performing their duty under Section 36. The Secretary of State has powers under Section 99 to act when an LEA is proved to be in default of any duty imposed upon it.

Educational Needs and Provision

4. Some families in the Peace Convoy are understood to have a settled base during the winter months and send their children to maintained schools. More might be encouraged to do so. But educational provision takes time to organise and becomes more difficult where families are constantly on the move, particularly if they cross local authority boundaries. Where the families are able to use authorised camping sites, it

is easier for LEAs to develop a framework of provision for the children. Education Welfare Officers are able to identify the whereabouts of children, liaise with families and schools, oversee the admission of children to appropriate educational facilities and help secure their regular attendance.

5. Provision made by individual LEAs for these children may be charged to the "no-area pool", a finance pool to which every LEA contributes and which is used, inter alia, to fund provision for children who have no fixed abode by reason of their parents' nomadic way of life.

6. Most parents in the Peace Convoy are, we believe, likely to wish to exercise their legal right to educate their children otherwise than at school. There are qualified teachers in the community who already provide education for their own and other children. Plans have also been developed for a school bus which would travel with the Convoy to provide education. Approaches for funding have recently been made to a number of trusts; the initial cost of setting up such a scheme is estimated at £25,000. LEAs too might be willing to contribute. The bus would be staffed by teachers within the Convoy.

12 June 1986

WELSH OFFICE ANNEX H

TRESPASS ON COMMON LAND

Welsh cases

There have been several instances of occupation of Welsh commons by hippies in recent years. The most notable are:

(a) Hay Bluff, Brecon Beacons.

Hippies, in varying numbers, have unlawfully occupied common land in this area over the past 5 years. This has caused considerable unrest locally through cases of sheep stealing, burglary, theft, damage to property, public disturbance, drug abuse and violence. There have been up to 700/800 hippies on the common but we understand that at present there are only 12 in residence. The usual pattern is for there to be a large influx at the end of the summer, the main attraction being the "magic mushrooms" which grow in the area. Action to deal with the problem has been inhibited by the reluctance of the major land owner (Tregoyd Estate) to seek a possession order. However, the land has now changed hands and we are told that the new owners are prepared to seek such an order. A 14 day "notice to quit" was served upon the hippies a week ago; if this is not heeded the owners will be applying to the High Court for an Order. In 1984 the land was the subject of a Deed of Declaration which brought it within the ambit of section 193 of the Law of Property Act 1925 (para 2 above). The police have since been very active in the use of the powers this gives them to prosecute for camping, vehicular use etc and there have been a number of convictions.

(b) Llangybi Common, Ceredigion

Itinerants have been occupying part of this common for about 12 years. The "hardcore" of the encampment rarely cause any significant trouble but at times the numbers rise to as much as 50, giving rise to considerable local unrest. There is no known owner of the soil and the possession order remedy is not, therefore, available. The district council are in process of making an order under section 23 of the Caravans and Control of Development Act 1960 (para 3).

(c) Twmbarlwm, Risca, Gwent

Considerable numbers of hippies, reported to be as many as 250, took up residence on this site about 10 days ago. The police tell us that the numbers have now declined leaving only some 30 - 40 most of whom are said to be of local origin. Those still at the site are expected by the police to leave later this week. The police searched the camp on 6 June and arrested 15 people for drugs offences.

9 June 1986 ERP3

ANNEX 'B'

TRAVELLERS/MUTANTS: TRUNK AND COUNTY ROADS

The Welsh Office were much concerned with a group of travellers known as "mutants" who stayed in Dyfed from 1974 onwards, culminating in a long stay in a trunk road layby near Haverfordwest from 1981 to 1983. The circumstances are set out in the Secretary of State for Wales's letter of 17 February 1984 (attached).

The mutants' occupation of the layby caused much travail for the Secretary of State (as local MP) and the Welsh Office. People in the nearby town (Haverfordwest) found the mutants frightening (and in some cases noisome). Parents of children at the primary school nearest to the layby were worried by the effect of the presence of the mutants' children, who as we recall in fact compared favourably for intelligence and ability. When the Police brought a series of prosecutions for obstruction of the layby, the mutants moved on to part of the adjoining golf course; during this period, we were told, the nearby club house was broken into and despoiled on occasion.

The consequence was that great pressure was brought to bear upon the Welsh Office, as highway authority, to remove the mutants from the layby. But our apprehension was that the consequence would be that the mutants would merely fetch up in some other layby or along the fringes of the nearby roads. Contingency plans for stopping up other laybys were considered, but we were anxious that other road users (eg holidaymakers) should not be inconvenienced as a result of the bad behaviour of the mutants. The Welsh Office accordingly concluded that the most effective course of action would be for the Welsh Office and local authorities to take action simultaneously against the mutants. This took much time and persuasion, but eventually (as the Secretary of State's letter shows) resulted in a favourable judgment by Mr Justice Waterhouse and the removal of the mutants from Dyfed. It might be said that, as a result, the problem has been transferred to other localities; but the alternative of doing nothing was not feasible, given the strong pressures on the Welsh Office (as the highway authority concerned) and the possibility of legal action against us had we

taken no steps to prosecute the travellers for obstruction. Subsequently, the Department secured the layby in question against similar future incursions (its attraction was that it is within walking distance of Haverfordwest, with its DHSS office and other facilities). We also installed gates to prevent incursion into a nearby picnic and rest area which we had provided for users of the A40.

Annex A describes incursions on common land. In addition, a group of fundamentalist christians has recently camped in an afforested picnic area on a mountainside near Llandovery in Dyfed. The county council persuaded them to move last month by securing a possession order from the County Court. At the time, the Welsh Office were concerned that the evicted group would simply move to a nearby trunk road layby; and the county council agreed to stay action for a week as the group undertook to leave voluntarily (for Stonehenge!) within that period. It is possible that these people who are now comprise part of the large group at Stoney Cross in Hampshire.

It should be added that Wales is particularly vulnerable to incursions on common land, and therefore perhaps less so to incursions on farmers' land, although, of course, much of the common land is in use as grazing land. We have had no recent representations from farmers or farming unions about such incursions or such responsibilities as we have for dealing with them. It was easier to take action against occupation of trunk road property, although (quite apart from the difficulty of concerting legal action) there was reluctance to take action leading to imprisonment if that would merely throw upon the local population the duty of caring for the wives and children. Incidentally, the names of some of the hippies currently involved in the New Forest encampment were among the 43 named in our High Court action.

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From The Secretary of State for Wales

The Rt Hon Nicholas Edwards MP

17 February 1984

Dear Douglas,

I am grateful for the copy of the note of our meeting on 16 January about the presence of the protestors at Greenham Common. Paragraph 3(i) of the note gives a very compressed account of my Department's experience in dealing with the group known as 'Mutants' whose presence near Haverfordwest caused such problems in my own Constituency. I thought it might be helpful therefore to set out our experience more fully for the record.

The Mutants were people (some of whom, incidentally had earlier attended festivals at Stonehenge) who came to the county of Dyfed at various times from 1974 onwards. They occupied various sites near Haverfordwest (including common land at Pelcham Common and local authority land at Withybush Airport) and made clear their determination to stay, with their children, in Dyfed as long as they could. They became of serious concern to me as Secretary of State when between 1981 and 1983 they camped (in converted buses, vans and so on) on highway land in a lay-by of the A40 Trunk Road and on adjoining private land, a short distance east of the town. Their presence there and elsewhere in the vicinity was resented and strongly opposed by local residents.

Because of my responsibility for the highway land involved, a succession of remedies was tried by my Department but in the end we proceeded in respect of obstruction in the High Court against 43 named Mutants in respect of their occupation of trunk road lay-bys. At the same time and in a parallel action Dyfed County Council and the 6 District Councils of the County sought injunctions against 36 Mutants both in respect of the occupation of county roads and of private land, proceeding primarily under the powers contained in Section 222 of the Local Government Act 1972.

Mr Justice Waterhouse gave judgement in the action on 25 May 1983, granting injunctions in respect of trunk roads (both generally within Dyfed and in relation to the particular lay-by) and county roads. Of most interest in the present context, however, was his decision to grant, on the motion of the local authorities -

> 'a perpetual injunction restraining the defendants from occupying, for residential purposes, any land within the County of Dyfed without required planning permission'.

/...

The Rt Hon Douglas Hurd CBE MP
Home Office

Your Department might find it helpful to look at the transcript of Mr Justice Waterhouse's judgement in the case. We have voluminous papers concerning our handling of the matter. If your officials would like to see any of these at any time or talk to any of my officials who were involved, I should be very ready to arrange this. I should add that the injunctions have proved effective. Some of the Mutants purchased an old customs launch which was subsequently grounded on a sandy inlet in Milford Haven, but the people concerned are only a handful and the main group seems to have dispersed.

Finally, I take the opportunity of this letter to draw attention to another case of trespass which is currently causing concern and gave rise to an Oral Question from Tom Hooson on 13 December. This involves a group of squatters who are occupying Mynydd Illtyd Common in Powys. The parties involved - Dyfed-Powys Police, Powys County Council, the Brecon Beacons National Park Authority and the commoners - have concluded that legislation relating to common land does not offer any readily available and effective course of action. They are now seeking to persuade the land-owner to apply for a possession order. While this may remove the nuisance from the immediate vicinity of the common, in all probability it will not solve the problem. The group in question previously occupied a property known as Brondlys Castle from which they were evicted at the beginning of December. They will therefore probably simply move onto other land and may indeed grow in numbers as the weather improves.

I am aware that Patrick Jenkin has considered the remedies available to deal with trespass under common land legislation in relation to Greenham Common and concluded that there are no powers directly available to him and only limited scope for action by the local authorities. However I shall be watching with interest the results of the scheme of regulation and associated byelaws made by Newbury District Council under the Commons Act 1899 as well as any developments you may be considering on the laws of trespass generally.

A copy of this letter goes to Patrick Jenkin for his information.

SCOTTISH OFFICE

ANNEX I

ASSEMBLIES ON PRIVATE LAND: "PEACE CONVOYS"

SCOTTISH POSITION IN RELATION TO TRESPASS

1. In Scotland, the Trespass (Scotland) Act 1865 creates a criminal offence of lodging, occupying or encamping on private land or in private premises without the permission of the legal owners or occupier. The original purpose of the 1865 Act is not now known but may have been to deal with homeless vagrants in Victorian times, presumably resulting from the Highland clearances. It has since been amended by the Criminal Justice (Scotland) Act 1982 which restricted the penalty to a fine only, however a power of arrest remains and it is therefore considered that this provision is entirely adequate to deal with the present problem should it ever arise in Scotland.

2. The common law is also relevant in that it makes criminal other behaviour which may be associated with or ancillary to trespass. The most common offences of this kind will be:

2.1 Assault: in when a trespasser resists an owner's recourse in self-help, he lays himself open to a charge of assault, and furthermore the element of trespss may separately and formally be included in the charge.

2.2 Malicious mischief (or Vandalism): if a trespasser damages or destroys property he may be charged with malicious mischief (or the new statutory offence of vandalism created by Section 78 of the Criminal Justice (Scotland) Act 1980).

2.3 Breach of the Peace: the circumstances which can give rise to this offence, which consists of disorderly conduct to the alarm, annoyance or disturbance of other people, are very wide-ranging and may often be associated with a trespass. For example, noisy or abusive trespassers may be charged with breach of the peace, or the activities of a "peeping Tom", which may be the objective of a trespass, may well constitute a breach of the peace.

3. It is therefore suggested that whatever course of action is finally agreed for England and Wales no change is required to the present criminal law in Scotland.

jab16015

SCOTTISH POSITION ON ROAD TRAFFIC LAW

4. Road traffic law is standard throughout Great Britain. The North Review (referred to in the Home Secretary's minute) covers Scotland. The RT view is that it is clearly unsafe for unroadworthy vehicles to be on the road and they would in principle support the case for strengthened powers to prevent this. Giving the police power to impound is one option. (Though it seems fairly clear that in clearing the peace convoy from Stoney Cross the police have already anticipated this and acted well in excess of their present statutory authority).

5. It may be worth noting that it is already an offence under section 129 of the Roads (Scotland) Act 1984 to encamp in a road, including a verge. Enforcement practicalities and the cost effectiveness of doing so may, however, be a constraint.

SDD/SHHD
10 June 1986

NRSDN

CCBG

CABINET OFFICE,
WHITEHALL, LONDON SW1A 2AS

Chancellor of the Duchy of Lancaster

Tel No: 233 3299
7471

11th June 1986

The Rt Hon Douglas Hurd CBE MP
Secretary of State for the Home
Department
Home Office
Queen Annes's Gate
LONDON
SW1H 9AT

D Douglas.

PEACE CONVOY

Thank you for the copy of your minute of 6 June to the Prime Minister. More recent action by the Hampshire Constabulary has shown, as your minute suggested, that police powers are greater than widely supposed.

I am not keen that we should move rapidly to legislative changes without careful thought as to the implications for groups other than those at whom the measures are principally directed. Subject, however, to that, I would favour action on the lines of (d) as outlined in your minute, where the experience of Scottish law might offer guidance on its working.

More widely, though, my impression is that, whilst there is a public feeling that the law is deficient in not offering an immediate remedy to those whose land is trespassed upon in this way, there is an even wider incomprehension that prima facie traffic offences are not being prosecuted, and that the participants are, in effect, supported out of public funds.

I hope that you and John Moore will be able to bring forward early proposals concerning road traffic legislation. Perhaps also Norman Fowler could comment on whether means may be found to deny such groups the means of support for their activities, but without denying social security to those who are more legitimate travellers.

I am sending a copy of this letter to the Prime Minister, members of H Committee, to Michael Havers, and to Sir Robert Armstrong.

NORMAN TEBBIT

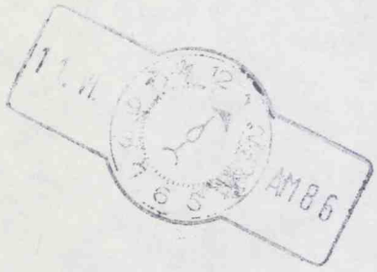
HOME AFFAIRS

REVIEW OF

PUBLIC

ORDER

PT 3



MJ2 CAS

10 DOWNING STREET

From the Principal Private Secretary

9 June 1986

PEACE CONVOY

The Prime Minister has read with interest the Home Secretary's minute of 6 June about measures mainly relating to the criminal law necessary to deal with the problems raised by the hippie convoy.

As you know, the Prime Minister intends to chair an early meeting of Ministers to consider all aspects of the problems raised by the hippie convoy. Sir Robert Armstrong will be producing a note for the meeting. The Home Secretary's minute can be considered at the meeting of Ministers.

I am sending a copy of this letter to Michael Stark (Cabinet Office).

N.L. Wicks

GA

Stephen Boys Smith Esq
Home Office

sent to Chequers

PRIME MINISTER

You are aware of developments regarding the Peace Convoy (see Nigel's minute in your Box).

There are some moves: the Sheriff has been instructed by MAFF to order the Convoy off the site. He is doing so this afternoon.

Thereafter, if there is no sign of movement, within 24 hours, the Police will remove them, as you know.

We will keep you informed.

DUTY CLERK
7 June 1986

PRIME MINISTER

The Home Secretary would like five minutes with you after OD to report the latest developments on the hippie convoy and to let you know what the Peacock Committee has recommended.

Agree?

Yes ms

N.L.W

N.L. Wicks

6 June 1986

PRIME MINISTER 6 June 1986

TRESPASS

The case of Mr Attwell, the West Country farmer, and the Peace Convoy's move to Hampshire, raise a number of issues which you are addressing. The first is the issue of whether the law of trespass, as presently understood in the common law, is adequate to permit a farmer to stop quickly a trespass that's causing him serious damager. The second is the question if the law is currently inadequate, what should be done about it? Should the offence of trespass be made criminal; at the moment it is only civil? If it were to be made criminal, what would the punishment be against individuals who were penniless and homeless? Should it be compulsory community service? In which case, where would the individuals, as in the Attwell case, reside? Thirdly, if the current law should remain itself unimproved, should the operation and working of the existing law be speeded up? Fourthly, does the accompanying social security office answer the question of social security fraud in the best way?

Entering on another person's land has, since the Middle Ages, been a civil offence which allows the aggrieved owner of the land to remove the trespasser by replying to a civil court, usually a County Court and obtaining an injunction to remove the trespasser. Unfortunately, the time necessary in order to obtain this injunction has been misunderstood. Although the rules say that to evict a trespasser, 5 days' notice must be given to the trespasser, and there is a strong case for reducing this to 2 days or even 24 hours, they also

allow for an emergency application. If ever there was a case for an emergency application cases to court, it was the Attwell case. Why the solicitor in that case did not do it is not known; it may be his inexperience or misunderstanding of the law. It is possible to apply even during the night for an emergency injunction where there is gross damage to an individuals' rights. Ex-party procedure should have been instituted in the first place and a speedy injunction obtained. Certainly, in the case of the encampment made in Forestry Commission land in Hampshire, a remedy was obtained within 48 hours.

The problem remains that the unfortunate victim of mass trespass may suffer grave damage to his crops and land, and expense in going to court against defendants unable to compensate him in any way. This must be a matter for the NFU Insurance Scheme or such insurance scheme as the CLA may recommend. The alternative of giving the aggrieved farmer legal aid from central funds is available already in cases of urgency or distress. In the case of a small farmer, such as Mr Attwell, whose livelihood has been put at risk, rules should provide that his costs are refundable. State compensation, which has been extended in a number of areas, is already stretched and this Government cannot pay for that but is paying for an extensive police operation.

Because most trespassers cause no harm, it would be unfortunate if trespass were turned into a criminal offence. Moreover, if it were made a crime, there would be little point

in fining trespassers who could not pay resulting in inevitable pressure on the already overcrowded prisona. If the criminal route were followed, then in addition to the four options considered by the Home Office, you might consider:

1. A variant of the Home Secretary's option (d), of 'refusing to leave on request of the lawful owner', namely, refusing to leave at the request of a police officer with the agreement of the lawful owner. This would hopefully cut down a massive proliferation of alleged crimes, but would place an extra burden on the police.

2. Guidelines on what is a 'breach of the peace'. Clearly the activity at the Attwell's farm amounted to a breach of the peace. Why did police not move in to stop the egg throwing and damage? We should look at this.

3. A new on-the-spot anti-litter fine (linking anti-trespass to your litter initiative). Failure or refusal to pay could be a summary offence or a breach of the peace. There are international precedents that show this to be a most effective remedy for litter (eg Singapore) and it would help against trespassers too.

We attach the Lord Chancellor's letter to Judges asking for their help.

HARTLEY BOOTH

DRAFT LETTER: LORD CHANCELLOR TO LORD CHIEF JUSTICE

Current events involving the so-called Peace Convoy and the passage through Parliament of the Public Order Bill have focussed attention on the law of trespass. While most concern has centred on the criminal law, I have received representations from Members of Parliament and bodies such as the Country Landowners Association, whose view is that the present summary procedure provided by RSC Order 113 and CCR Order 24 is not as effective as it might be, at least insofar as it applies to non-residential premises. I should be grateful for your views on suggestions for improvement that have been made to me.

The principal proposal is that the period between the date of service and the date of the hearing (which was reduced in 1977 from seven clear days to five) should be further shortened to two or three days. My fear is that the benefit of this change may be lost where the defendants wish to instruct solicitors and counsel and accordingly seek an adjournment. Your experience and that of your colleagues would be most helpful on the value of this proposal.

The five day period may, of course, be shortened in cases of urgency. Instead of an application to the judge in such circumstances it is suggested that the plaintiff's solicitor should be able to lodge a certificate of urgency with his application, which would be considered by the listing officer. I understand that this is already the practice with Mareva injunctions in the Queen's Bench Division.

Thirdly, there is the question of service: I am told that delay is often caused by the need to apply for special directions for service on named defendants; as for service on unnamed defendants, the provisions of Order 113 appear to be more appropriate to residential than to non-residential premises.

It has also been suggested that masters should be able to hear these applications. Many, I know, are straightforward and are dealt with by Circuit Judges at the Royal Courts of Justice, but I appreciate that the remedy is a drastic one and it should perhaps be treated as akin to an injunction and therefore be for a judge.

At present the only relief under Order 113 is possession of the land; it has been proposed that injunctive relief should also be available. In principle I have no objection to this, although there may be practical difficulties in enforcement, since the rules for committal applications are, quite rightly, strictly adhered to.

Finally, it is suggested that a prescribed form of affidavit might be helpful. I am doubtful whether this should be included in the rules, but I see no reason why there should not be a practice form.

You may also wish to consider the view of the Country Landowners Association, that the Rules should differentiate between small and large numbers of defendants, the former being more likely to have a arguable case and to require greater protection. In my view to do so would be artificial and likely to lead either to injustice or abuse.

Your views on the working of Order 113 in general would be welcome. There can be no doubt that it is a considerable improvement on the previous law, but I am always prepared to consider changes.

I am writing in similar terms to the Vice-Chancellor and the Council of Her Majesty's Circuit Judges and am copying this letter to the Master of the Rolls.

KD

SUMMARY EVICTION OF TRESPASSERS

NOTE OF MEETING

1. The Lord Chancellor met Robert Key MP, Nicholas Lyell MP and Peter Birts of counsel on 21st May 1986 to discuss difficulties in operating RSC Order 113 and CCR Order 24. Hodgson was in attendance.

2. The Lord Chancellor opened the discussion by saying that the Courts could not begin considering a case on the assumption that the landlord was right; it was part of the Court's function to defend innocent people.

3. Lyell said that Order 113 had been devised to meet the problem of squatters on residential premises and it had been most effective. What was wanted was for it to be equally effective for non-residential premises.

4. The Lord Chancellor agreed that there was a very real problem. It was possible for adjustments to the procedure to be made, but he pointed out that the difficulties often arose from the facts and not the law, for example when there was a large number of squatters, and there would inevitably be some delay in a procedure which was interfering with de facto possession.

5. Birts then outlined his seven proposals for the reform of Order 113 contained in his letter to Key of 5th May. On the first, that the five day period before an order could be made should be shortened, the Lord Chancellor said that he would consult the judiciary. There was already a power to abridge the period in cases of emergency and it was possible that a general shortening of the period might not be as beneficial as had been hoped, since defendants could always ask for an adjournment to be able to instruct solicitors and counsel..

6. Birts' second suggestion was that an expedited hearing could be best obtained on the plaintiff's solicitor lodging a certificate of urgency, as was the practice in applications for Mareva relief. The decision whether or not to expedite the hearing would be for the listing officer and not the judge or master. The Lord Chancellor agreed to consult on this suggestion. He was also prepared to consider ways of easing the rules for service, and prescribing a form of affidavit. Birts was asked to provide a first draft.

7. Birts' fifth suggestion was that the Court should be able to dispense with compliance with technical rules; he said that judges gave defendants the benefit of the doubt even when their cases were wholly without merit. The Lord Chancellor said that this begged the question: the merit of the case was what the judge had to decide. However, he agreed to consult on Birts' other two suggestions, that there should be a power to grant an injunction

with an order under Order 113 and that masters and county court registrars should be able to hear cases. It was agreed that there were practical difficulties with injunctions, principally over their enforcement, the rules relating to committal for breach of orders being strict. There might also be judicial opposition to giving masters and registrars jurisdiction in this area.

8. Hodgson would prepare a letter for the Lord Chancellor to send to the Lord Chief Justice, the Vice-Chancellor and the Council of Circuit Judges, which would also be copied to the Master of the Rolls. Thereafter, there would have to be general consultation and in any event any amendments to the rules would be made by the Supreme Court Rule Committee, of which the Lord Chancellor was only one member. It would not be possible for consultation to take place in time for the next statutory instrument of rule amendement, which was to be made at the beginning of July, but amendments would be considered for the following instrument, in about December.

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9. During the discussion Birts mentioned delays in getting before the QB Judge in chambers and, in answer to the Lord Chancellor, said that there were not enough QB Judges available in chambers. The Lord Chancellor would take this up, via officials, with the Lord Chief Justice.

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10. After the meeting Harris recommended to Key, Lyell and Birts that more use be made of the county courts and that plaintiffs should seek the assistance of circuit officers. They could be advised as to the most convenient court to take proceedings and bailiffs could be alerted in good time.

cc PLESS 1

PRIME MINISTER

PEACE CONVOY

Mr Hurd's minute below gives a good account of the Home Office aspects of action against the peace convoy (surely we ought not to dignify it with this name - it certainly does not bring peace!). As Mr Hurd says, the Home Office criminal law aspects are only a part of the matter. He is surely right in asking for a "coherent policy designed to put a clear choice day by day before the convoy - to live and, if they wish, travel in obedience to the laws and rules of the land, or to face continual disruption and harassment as these laws and rules are enforced upon them".

Sir Robert Armstrong is producing a note for the Group of Ministers under your Chairmanship so that there may be an early meeting which will cover all the aspects of the problem. The Home Secretary's minute can be considered as part of this.

Seems useful note by Hartley below.

Meanwhile, do you have any comments on the particular proposals in Mr Hurd's minute?

Timetable for the Weekend

The Home Office tell me that if the hippies do not begin to move off from their New Forest site by tomorrow, MAFF (who are the landowners) will require the local Sheriff to serve an Order ordering them to move off. Refusal to obey the Sheriff's Order is a criminal offence. The police will then give them 24 hours to move. If they do not move off thereafter, the police will, at a convenient time, remove them forcibly. This is not likely to happen until Monday.

The signs on Friday afternoon are that they will not move before the Sheriff serves his Order. There are apparently preparations for a pop festival in hand.

N.L.W.

N.L. Wicks

PRIME MINISTER

PEACE CONVOY

At Cabinet yesterday I said that I would send you a minute about the Peace Convoy, and the measures which I believe may be necessary, in Parliament and outside, to deal with it in the future.

The activities of the Peace Convoy involve the services and rules of many public departments. The resulting problems will not quickly evaporate, and it is clearly essential to hold to a coherent and comprehensive policy on the matter. You agreed that machinery should be put in place to enable us collectively to update and administer this policy. The state of the criminal law is part, but in my view not the decisive part, of the policy.

Present position

The Convoy tends to winter in smaller groups and come together in larger groups for the festival season in the summer. The main body of the Convoy (about 100 vehicles and 300 people) is in Hampshire. It is camped this week at Stoney Cross on land belonging to the Ministry of Agriculture and managed by the Forestry Commission. There are also groups in Gwent at Risca (20 vehicles), Thames Valley at Bracknell (20 vehicles), Avon and Somerset (6-10 vehicles at West Ling), Wiltshire (5 vehicles at Great Yews, 2 at Bradford on Avon, and 2 at Honnington near Salisbury).

MAFF issued proceedings on Tuesday for recovery of the New Forest land and there was an expedited hearing yesterday. The police will assist the sheriff as they have at previous evictions. They do not know where the mobile members of the Convoy will go; and (apart from the negative power described below) they have no power to direct it where to go.

Present police powers

These are substantially greater than the press or some Members of Parliament have supposed. The police already have a wide range of powers to prevent breaches of the peace and obstruction of the highway, and to arrest for offences like criminal damage. They have used these powers in the last week to keep the Convoy away from large towns (such as Bournemouth) and to break the Convoy up into smaller, more manageable groups (in whch the Dorset Police were only partially successful, because the groups converged later in the day).

Those who understandably ask why the police do not use these powers on all occasions (e.g. to prosecute for criminal damage) do not always take into account the dilemma sometimes facing the police between vigorously enforcing the law and maintaining The Queen's peace. This dilemma comes to the fore in any discussion of inner city riots, and now of disorder in the countryside.

What the police do not have is a specific power to prevent entry to private land, unless it is accompanied by criminal damage or a threat to breach of the peace. The police must wait until a writ of possession is obtained. They then attend to ensure that the eviction is peaceful, and to prevent obstruction of the sheriff (which is itself a criminal offence).

Nor do the police have power to impound unroadworthy vehicles. Many of the Convoy's vehicles are untaxed, uninsured and unroadworthy. The police can issue summonses for these offences, and may sometimes arrest the driver, but they cannot take the vehicles off the road. This is a point on which criticism has now focussed. Some of these points are being examined by Dr North's Road Traffic Law Review, but this will not report until the end of the year.

New police powers

The Police and Criminal Evidence Act 1984 gave the police more effective powers to arrest suspected offenders, in particular those who fail to give a satisfactory name and address.

The Public Order Bill will extend the public order offences in clauses 4 and 5 of the Bill (threatening behaviour and disorderly conduct) to offences committed on private land. These will be important changes. It also confers new powers on the police to control assemblies in public places which threaten serious public disorder, serious damage, serious disruption or intimidation: but these powers do not extend to assemblies on land not open to the public.

Speedier enforcement of the civil law

Part of the difficulty stems from the length of time it takes to evict the Convoy from private land. There is already a speedy procedure for the recovery of possession of land: and the Lord Chancellor is considering whether the procedure can be further streamlined, so that landowners can obtain and enforce a possession order as quickly as possible. In the case of Mr Attwell it took 7 days; MAFF obtained their remedy in two days.

Police action

We have been in close touch with the police forces concerned (Avon and Somerset, Dorset, Hampshire and Wiltshire), and they are in close touch with each other. Giles Shaw had a meeting with ACPO on Wednesday and I will talk to the Chief Constables concerned at the ACPO summer conference next week. The police are enforcing the law wherever possible: but, particularly when the Convoy is on the move, it is not always easy to do so without causing further disruption, and there is a constant risk of disorder. Hampshire police are checking individual vehicles which leave the present site, and some 100 arrests have been

made in the last two and half weeks (20 of them under the new powers in the Police and Criminal Evidence Act). When the Convoy moves off, the police will make a determined attempt to see that it travels in smaller groups; but it may be difficult for them to prevent it reconvening en masse at its next destination.

Government action

The Convoy raises problems which go beyond my own responsibilities for the criminal law and the police. There is the question of education for their children and the question of taking children into care; I understand they are suspected of social security fraud; they cause havoc in local social security offices; their vehicles should be properly tested and licensed; they may be a danger to public health; and such bodies as the NFU have suggested that the Government should provide sites for the Convoy so that they do not need to trespass on private land. So far our response has been developed by each Department on an individual basis. We now need a co-ordinated Government response to these and the other issues raised.

Possible changes in the law

We have been considering urgently whether new police powers are required to prevent the kind of invasion suffered by Mr Attwell, and in particular whether any change is required to the law of trespass. We are still discussing these options with the police, but the following are the initial possibilities we have considered:

(a) Extending clause 14 of the Public Order Bill (new police powers over assemblies) to private land

This is what the Country Landowners' Association and some MPs have been demanding, and would probably satisfy Parliamentary pressure. We have resisted it mainly because the police are opposed. We also doubt whether it would work, because for much of the time the Convoy do not breach one of the four tests which must be met before the police can impose conditions on assemblies (serious disorder, serious damage, serious disruption or intimidation).

(b) A new power to prevent public processions from entering private land without the permission of the owner if the police believe the purpose is to reside on the land for any period

This avoids reliance on the four tests and attacks the main mischief (trespass to the exclusion of the lawful occupier); and it would not catch ramblers etc. But the police would be powerless to deal with an invasion unless they had imposed conditions on the Convoy in advance. It could be avoided if the Convoy chose not to travel in a procession, and it could equally apply to groups such as gypsies, though if the threshold for the power was that the procession contained a certain number of vehicles this risk could be reduced.

(c) A new offence of mass trespass

To avoid criminalising trivial acts of trespass the offence might be limited by numbers (20 or more). This could be circumvented by the Convoy breaking up into groups below the threshold. It could also catch large groups of ramblers, picknickers, fox hunters. These could be excluded by additional tests, such as intent (to reside rather than to pass through); or by reference to the use of vehicles.

(d) A new offence of refusing to leave on request of the lawful occupier

This has been suggested by Nicholas Lyell and others. There is already an offence against squatters of refusing to leave residential premises (Criminal Law Act 1977). To extend it to other places would catch all trespassers who were challenged and refused to leave. The police would probably oppose such a widely drawn offence. A number of jurisdictions (including Scotland) have an offence on these lines.

The version I am inclined to favour would be to make it an offence to refuse to leave private land at the request of the owner or his agent if the person concerned had entered as a trespasser for the purpose of residing there for any period. One possible refinement would be to add a qualification that the trespass would have to involve a vehicle as well as a person.

This amalgam of (b) and a limited version of (d) should meet the concerns being expressed about the Peace Convoy. The police will need to be consulted, and there may well be resistance from other interest groups (particularly the countryside lobby) to any change to the traditional approach that trespass is a matter for the civil law. Much will depend on whether we can frame the powers in a sufficiently precise way to satisfy the House of Lords, where the subject may not be entirely within our control. Lord Renton is likely to table an amendment on the lines of (a) to the Public Order Bill which might attract considerable support, although it would probably turn out to be of doubtful use.

Timing is difficult. The Peace Convoy as a damaging force is a summer phenonenon. Any new powers will not be on the statute book in time to affect what happens this summer, which will in any case largely depend on the use which the police and other public agencies make of their substantial existing powers. The police have so far been reluctant to contemplate fresh powers in this difficult and sensitive area of trespass, and there is not much point in giving them powers which in practice they may be slow to use or which the Convoy, who are well advised on the law, will easily be able to circumvent. Powers taken to deal with the Convoy could have unpopular side effects when applied elsewhere, unless they are carefully limited. We need a little time to reflect further on the precise elements of the new powers and we shall have to consult more widely in order to minimise the risks of Parliamentary failure, particularly in the Lords. In Parliamentary terms the choice lies between:

(a) tabling amendments to the Public Order Bill in the Lords in July at Committee Stage (which may not give us enough time);

(b) tabling amendments to the Bill at Report Stage in October;

(c) designing yet another set of provisions for the Criminal Justice Bill in the next session. There are several difficulties about this;

(d) designing a separate Trespass Bill in the next session.

We need to consider whether there is a case for early changes in road traffic legislation in advance of Dr North's review. The Secretary of State for Transport has a significant interest here, and I have asked my officials to get in touch with his.

Attention has focussed on the question of criminal powers, and so has this minute. But I am sure that they are not central to what happens. The essence is not adding to the law, but applying a coherent policy designed to put a clear choice day by day before the Convoy - to live and, if they wish, travel in obedience to the laws and rules of the land, or to face continual disruption and harassment as these laws and rules are enforced upon them.

Copies of this minute go to colleagues on H, Michael Havers and Sir Robert Armstrong.

Douglas Hurd.

6 June 1986

10 DOWNING STREET

From the Private Secretary

4 June 1986

Dear Stephen

PUBLIC ORDER BILL:
INCITEMENT TO RACIAL HATRED - BROADCASTING

The Prime Minister has seen the Home Secretary's letters to the Lord President of 20 May and 2 June, and the Lord President's to the Home Secretary of 21 May. She has noted the conclusion which the Home Secretary has reached that the extended offence of incitement to racial hatred should not at this stage cover the broadcasting authorities. She believes however that the decision not to include the authorities should be a temporary one, and that another opportunity should be found to introduce the required legislation in due course.

I am copying this letter to Tony Galsworthy (Foreign and Commonwealth Office), to Private Secretary to members of H Committee, the First Parliamentary Counsel and to Michael Stark (Cabinet Office).

Yours ever

Mark Addison

(MARK ADDISON)

Stephen Boys Smith, Esq.,
Home Office.

Hippy Convoy (New Forest)

3.31 pm

Mr. Patrick McNair-Wilson (New Forest) *(by private notice),* asked the Secretary of State for the Home Department if he will call for a report from the chief constable of Hampshire about the hippy convoy currently occupying Crown land in the New Forest.

The Secretary of State for the Home Department (Mr. Douglas Hurd): As the House will know, the so-called peace convoy was evicted from Mr. Attwell's farm at Cook's Carey in Somerset last week, and from Yeovil it moved into Dorset. It passed through Dorset during the weekend, causing serious dislocation to traffic on the way, and on Sunday evening moved into Hampshire. I have been in touch with the Hampshire police this morning, and I understand that on Sunday night a group consisting of some 115 vehicles and about 300 people camped on a minor road in the New Forest at Stoney Cross. Yesterday the police ordered them to move for obstructing the highway, and they moved on to the land adjoining the road, which belongs to the Forestry Commission. I understand that the commission is issuing proceedings today for recovery of the land and seeking an expedited hearing. If the commission is granted a possession order, the police will assist the sheriff, as they have at previous evictions.

That is the present situation as reported by the chief constable. Hon. Members from the west country will be aware of the immense policing difficulties created by the peace convoy, because, as anyone whose constituency has been visited by the convoy knows, it is anything but peaceful. Indeed, it resembles nothing more than a band of medieval brigands who have no respect for the law or for the rights of others. All hon. Members will have watched with sadness and anger the ordeal of Mr. Attwell at their hands. It is plainly not acceptable that a group of this kind should inflict such harm and distress on law-abiding citizens and, of course, the law of the land does not accept such behaviour. Criminal powers are available to the police and civil remedies to the dispossessed occupier. Following a meeting recently with two of my hon. Friends, my noble Friend the Lord Chancellor is considering urgently how the civil law procedures might be streamlined in order to grant more speedy recovery of the possession of land.

The criminal law has an important part to play. The police have wide powers to take action where there is an imminent risk of a breach of the peace; they have powers to prevent obstruction of the highway; and they have powers to arrest for offences such as criminal damage. We have strengthened these powers in the Police and Criminal Evidence Act 1985. The Public Order Bill, if enacted, will further strengthen police powers and it will extend the public order offences in clauses 4 and 5—threatening behaviour and disorderly conduct — to offences committed on private land. I hope that this important Bill will soon be on the statute book.

Understandably people have asked whether any new police powers are required, and in particular whether any change to the law of trespass is required. There are strong arguments against making simple trespass a criminal offence. No one wants to criminalise the activities of a group of ramblers, and no one wants to harass genuine gipsies. But we are discussing with the police, and in meetings held this week with the National Farmers Union and the Country Landowners Association, whether some further strengthening of the law is required and, if so, what form that change should take. It may be that wider consultation will be required. What I can say today is that we are fully aware of the strength of feeling on this issue; that we have the matter very much in hand and that, if any further changes in the law beyond those we already propose are required, we shall not hesitate to introduce them.

We are of course in close touch with the police forces concerned and they are in close touch with each other. No one should underestimate the difficulties involved in policing the convoy, and I am grateful for the messages of support that I have received from hon. Members in the west country for the police in their areas. I am in no doubt about the resolve of the police to deal as they judge best with the criminal offences committed by the convoy. It is not just the criminal law that is flouted by the convoy. The other arm of our strategy must be to ensure effective action not just by the police but by any other public agency whose services the convoy exploits and whose rules it flouts. The peace convoy is not entitled to special treatment for exemptions simply because its members wish to contract out of their responsibilities as citizens.

Mr. McNair-Wilson: Is my right hon. Friend aware that many of the vehicles in which this anarchic group travels, with its own legal adviser, are untaxed, untested and uninsured? Why cannot action be taken to remove those vehicles from the roads. Is my right hon. Friend further aware that the group has, in one form or another, been in existence for many years? The Government should do something now; passing the problem from my constituents to someone else is no answer. It could potentially be extremely dangerous because one is dealing with a large unruly group. What action is to be taken to break up the group into smaller groups of a manageable size?

Mr. Hurd: I agree with the thrust of what my hon. Friend has said. I agree that it is not enough simply to speed the so-called peace convoy on its way, without regard to its law-breaking activities. If my hon. Friend listened to my statement, he will have heard that that was the thrust of it. The chief constables in the areas involved know of their duty to enforce the law and of the wide powers that they already have. It is for them to make their own judgments about the use of those powers under the operational independence that they have.

The law on the specific point that my hon. Friend raised is that the police have no power to prevent the further movement of an unroadworthy or untaxed vehicle. What they have is the power to issue a summons. Under the Police and Criminal Evidence Act they will have a new power to arrest an alleged offender if no satisfactory address is given.

Mr. Paddy Ashdown (Yeovil): Will the Home Secretary say why his Government have failed to respond to a request from Somerset county council a year ago about where responsibility for dealing with the matter should lie? Is it not the case that the Government's indecision on the matter has left the police with a law which is either unenforceable or inadequate and farmers with a major threat to their livelihood?

carrying out the United States operation against specific terrorist targets in Libya, with the lowest possible risk of Libyan civilian and United States service casualties. As the United States has indicated, the F111 possesses advanced avionics and other capabilities which made it particularly suitable for such a mission.

Mr. Dalyell: Will the Prime Minister name the senior American, or Americans, who told her that the F111s were more precise than the carrier-based aircraft?

The Prime Minister: That was the advice that we received both from across the Atlantic and from home.

Sir Anthony Buck: Does my right hon. Friend agree that if we had not given permission for the F111s to be utilised, the Americans would have gone ahead, used less accurate aircraft and that there would have been more civilian casualties?

The Prime Minister: As I said when I spoke to the House on this matter, I understand that the raid would have gone ahead in any event.

Mr. Stuart Holland: The Prime Minister referred to the United Kingdom's aid budget to Africa.

Mr. Speaker: Order. The question is about the F111.

Mr. Marlow: What effect has the raid had on Colonel Gaddafi's ability to wage international terrorism?

The Prime Minister: I believe that the raid had a great effect. I believe that it showed that the United States was prepared to use force in self-defence against terrorism. That in itself is a salutary warning.

Mr. Wareing: Will the Prime Minister say what kind of self-defence should be conducted by the Nicaraguan Government against the terrorist in the White House?

Mr. Speaker: Order. That does not relate to this question, which is about Libya. It is a definitive question.

Mr. Wareing: As the United States believed that it was necessary to use F111s——

Mr. Speaker: Order. The hon. Member is wasting time.

Engagements

Q40. **Mr. Litherland** asked the Prime Minister if she will list her official engagements for Tuesday 3 June.

The Prime Minister: I refer the hon. Gentleman to the reply that I gave some moments ago.

Mr. Litherland: Does the Prime Minister agree with Mr. Bob Geldof's vivid description of the Foreign Secretary's speech at the United Nations? However crudely it was put, was it not a fair and just assessment of the cant and hypocrisy this Government's aid to the Third world, compared with the Live Aid events? Does the right hon. Lady realise that her Government are now branded as a Government without compassion?

The Prime Minister: There are 550 million reasons why that assertion is not true. I have already said that £550 million was given by the taxpayer, through this Government, to Africa in one year both in bilateral and in multilateral aid. That was a generous contribution to the problems ot that troubled continent.

Mr. Nelson: Is my right hon. Friend aware that there will be widespread public support for her restatement this afternoon of the mutual obligations under the SALT II treaty? Does she agree that treaties lightly cast aside may be lightly entered into?

The Prime Minister: Treaties should not be lightly entered into. This one was not lightly entered into. It was never ratified by the United States, because in the meantime the Soviet Union went into Afghanistan, which country it still occupies. Nevertheless, the United States has continued to observe the treaty and I believe that it is anxious that both sides should continue to observe it.

Q5. **Mr. Eadie** asked the Prime Minister if she will list her official engagements for Tuesday 3 June.

The Prime Minister: I refer the hon. Gentleman to the reply that I gave some moments ago.

Mr. Eadie: Since the Prime Minister has shown concern about litter in our streets when viewing from a car window, and has asked that something should be done about it, I wonder whether the right hon. Lady would consider at long last travelling by British Rail? If she looked out of the window she would see the litter of industrial devastation that the economic policies of her Government have perpetuated, and she might do something about that too.

The Prime Minister: With regard to the implications of the question, an initiative will shortly be announced on improving the environment with regard to litter. With regard to the greater matter, as the hon. Gentleman is aware, regional aid is now slanted towards creating more jobs in those regions, and my noble Friend the Secretary of State for Employment has taken extensive action, all of which the hon. Gentleman will find set out extensively in the new booklet "Action for Jobs".

[Mr. Hurd]

substantial powers to the police. It is for the chief officers of police in each county to decide, in the best interests of their county and according to their judgment of the local position, how, when and with what force to use the powers that Parliament has conferred on them.

Several Hon. Members *rose*——

Mr. Speaker: Order. I remind the House that this is a private notice question, not a statement. I shall allow questions to continue for a further five minutes, after which we have another private notice question.

Mr. Joseph Ashton (Bassetlaw): Why is it that during the miners' strike more than 700 people could be arrested simply for shouting "Scab" or stepping off a pavement, and ancient laws called "besetting" could be found under which men could be arrested simply for staring at somebody, yet in this case the Home Secretary wrings his hands and asks for sympathy?

Mr. Hurd: That is not an accurate summary of my statement. The hon. Gentleman will find that action has been taken to arrest and bring to justice a large number of people who have broken the law during the peace convoy. The police will continue to work in the south-west of England and in the hon. Gentleman's part of the world to protect citizens against law breaking from whatever source it comes.

Mr. Robert Key (Salisbury): My constituents in south Wiltshire are angry and frightened, and it gives them little pleasure that the Paddy-come-latelies are now interested in a problem with which they have lived for more than 10 years.

Does my right hon. Friend agree that, if we are to see a peaceful resolution of the problem, it is essential to have a cooling-off period and for an independent committee to report within days, not months, on what has happened? There must be an immediate and properly resourced inquiry, and the travellers must not attempt to battle their way to Stonehenge this year because it will only lead to further real trouble.

Mr. Hurd: My hon. Friend was probably the first hon. Member to take an informed and continuing interest in this matter for reasons which are deeply rooted in his constituency. Therefore, I listen carefully to what he says. However, I am not sure that an independent inquiry of the type he mentioned would do good. We must support the police and the chief officers in their efforts to enforce the existing law, get the Public Order Bill on the statute book, see if any further powers are required, and look at the action of all Government agencies to ensure that we all row together, not towards some great battle or confrontation —I agree with my hon. Friend about that—but towards a resolution of the problem on the basis of respect for the law.

Mr. Donald Anderson (Swansea, East): Is the Home Secretary aware that many of us who have no sympathy for this unruly group are nevertheless frightened by the emotions which the incident has whipped up among Members on the other side of the House? Will he take care to ensure that in the heat of the moment he does not start along the road of criminalising the law on trespass?

Mr. Hurd: The emotion is fairly general and understandable, and I am sure that it is not confined to supporters of one political party. Indeed, the correspondence columns of the newspapers show that. I hope that my statement, read as a whole, reflects to some extent the anxiety which the hon. Gentleman reflects, and deals effectively with the anxiety and emotion which clearly exist.

Sir Eldon Griffiths (Bury St. Edmunds): As one who would oppose criminalising trespass and certainly does not wish the police to be used as the private agents of private land owners, may I ask my right hon. Friend nevertheless to acknowledge that it is far more difficult and causes far more casualties, especially to the police, to remove those people from land which they have no business to occupy than it is to prevent them from going there in the first place? Recalling my right hon. Friend's interest in the Committee on the Public Order Bill, may I ask him to say that when the Bill reaches another place he will do his utmost to ensure that clauses 4 and 5 apply to private land and are effective instruments through which the police can act?

Mr. Hurd: Both those clauses, which deal with threatening behaviour and disorderly conduct, would apply in respect of private land. In the earlier part of his question, my hon. Friend was pushing us very much in the direction in which our minds are already moving. I hope that people will not get the impression that there is no effective criminal law in the matter. The criminal law already gives the police substantial powers to deal with such an incident. The Public Order Bill will add to them.

Mr. Clive Soley (Hammersmith): The Home Secretary may have the matter in hand, but he certainly does not have it under control. I remind him that last year my hon. Friend the Member for South Shields (Dr. Clark) and I, with limited support from the hon. Member for Salisbury (Mr. Key) came close to getting an agreement by which the Department of the Environment would negotiate with the Department of Defence to have suitable land set aside for the group to provide sufficient time to arrange a long-term solution for both a festival and the travellers. *[Interruption.]* If Conservative Members do not think that that is necessary, they had better decide where the houses will come from to house those people if they return to their former way of life.

I remind the Home Secretary that the Secretary of State for the Environment negotiated with the group and other groups to have access to Stonehenge. If the Home Secretary persists in using the police as though they were the Tory party's private army, he will continue to whip up hostility within the police, because the police do not like being used in such a role when it is not necessary, any more than the farmers like their land being used. The Government have caused riots not only in the inner cities in relation to industrial disputes, but in the byways and fields of England.

When the right hon. Gentleman answers, will he take the opportunity to remind the minority in his own party, who are betraying dangerously fascist symptons, that when they talk of making people conform, that is precisely the language that was used in Nazi Germany, and that when people failed to perform they were put in concentration camps and gas chambers? Will the right hon. Gentleman renounce that behaviour by his own party supporters?

Will the Home Secretary now grasp the nettle, first, by providing the police with the resources that they need to enforce the law; secondly, by strengthening the law on trespass, particularly in relation to mass trespass with vehicles; thirdly, by saying where responsibility for dealing with the matter should lie; and, finally, by providing facilities for the hippy convoy so that its freedom does not impinge on the freedom of others?

Mr. Hurd: The hon. Gentleman continues to amaze us with his contortions on the matter. There is no difficulty in understanding where responsibility lies. The police have wide powers under the existing law. They have powers as regards a breach of the peace and as regards criminal damage. Their powers have been strengthened in the Police and Criminal Evidence Act. We are proposing new powers in the Public Order Bill that is being strongly contested in Committee. Those powers would extend the offence of threatening damage to private land and would create a new offence of disorderly conduct. The hon. Gentleman should have a word with his hon. Friends about the attitudes of the alliance parties. I have said, as the Prime Minister said before me, that if, in addition to the powers which already exist and in addition to the powers that we propose in the Public Order Bill, it turns out that further powers are required we shall not hesitate to introduce them.

Mr. Robert Adley (Christchurch): I thank my right hon. Friend for his statement. Is he aware that my constituents suffer the attention of these unlovely people? As my hon. Friend the Member for New Forest (Mr. McNair-Wilson) has said, this is a long-standing problem of a collection of thoroughly aggressive, anti-social people who are intent, among other things, on provoking the police. If the House passes legislation, as it has, to make it illegal for more than six pickets to congregate at a given place during an industrial dispute, cannot legislation be considered that would start by making it illegal, except for the public services, for more than a specified number of vehicles to travel round the countryside on public roads?

Mr. Hurd: I listened with care to my hon. Friend's suggestion. The trouble with his suggestion and others I have heard is that it might deal effectively with this mischief but would create many other problems which its authors did not intend. That is why, as I have said, we intend to consult urgently. If, in addition to the existing powers of the police and the proposals in the Public Order Bill, we can find a way of meeting this mischief without adding other problems to it, we shall take that course.

Mr. Merlyn Rees (Morley and Leeds, South): Is the same law available to deal with this convoy as was used to deal with the Kent miners during the miners' dispute when, effectively, men from the south were prevented from moving north? Can I assure my constituents in south Leeds, where we often have large numbers of vehicles occupied by travelling tinkers which nobody has been concerned with, that the same urgency will be used to deal with our problem as is now being used to deal with this problem in the south?

Mr. Hurd: Certainly, the law is the same in whatever part of the country it may be flouted. The police have the same power to anticipate a breach of the peace which they reasonably fear and I understand that the Dorset police have been using that power.

Mr. Nicholas Baker (Dorset, North): Will my right hon. Friend join me in congratulating the Dorset police on the splendid job they did peacefully to contain the damage, disturbance, fear and the threat to farmers and jobs that were caused by the hippy convoy? [HON. MEMBERS: "Reading".] With your persmission, Mr. Speaker, I shall refer to my notes. Will my right hon. Friend with me deplore the attack on the Dorset police made by the hon. Member for Yeovil (Mr. Ashdown) with no justification? Does he agree that the problem of such a convoy, which consists of 130 vehicles, derives from its size? Therefore, policies designed to disperse such a convoy and to include a provision in the Public Order Bill which will allow us to deal with large mass convoys of this kind is the correct approach?

Mr. Hurd: It is the intention of the chief constables who have been dealing with this problem to take action under their powers to disperse the convoy. I think that they have had some success in that and the number of vehicles is rather less than that which afflicted the people in Wiltshire a year ago.

I entirely agree with my hon. Friend's first point. I think that it is a little too easy to hold a political position and criticise chief constables for the exercise of their powers under the law. Our job is to ensure that those powers are adequate.

Dr. David Clark (South Shields): I appreciate the difficulties with this particular hippy convoy. However, does not the Minister realise that his announcement today will cause serious concern, especially when he refers to extending the simple trespass law?

The right hon. Gentleman told the House that he was prepared to meet representatives of the National Farmers' Union and the Country Landowners Association.

Is he aware that 20 per cent. of the people in this country have walking as their principal recreation? Is he prepared to meet representatives of the Ramblers Association, Youth Hostels Association and Open Spaces Society before he contemplates changing the law? Is he aware of the danger of applying the particular to the general when one is talking about legislation?

Mr. Hurd: It would be a poor day if Home Office Ministers did not meet the National Farmers Union or the Country Landowners Association. As the hon. Gentleman knows, our doors are also open to the Ramblers Association and others. I specifically said that there were strong arguments, which the police sustained with vigour, against a general criminalisation of trespass, not least for the reasons given by the hon. Gentleman. Although we have found some answers in the Public Order Bill, we must search for a way of distinguishing between what the hon. Gentleman is talking about and the undoubted mischiefs which concern my hon. Friend the Member for New Forest (Mr. McNair-Wilson).

Mr. Ian Gow (Eastbourne): If the law relating to obstruction of the public highway is adequate, as I think my right hon. Friend has told the House, can he give an assurance that those whom he describes as medieval brigands will not be able to obstruct the highway on further journeys of the so-called peace convoy?

Mr. Hurd: My hon. Friend knows that the law on obstruction of the highway, as with the law on criminal damage and on breach of the peace, is wide and gives

Mr. Hurd: Where is the right hon. Gentleman for Manchester, Gorton (Mr. Kaufman)? We need him badly. The hon. Member for Hammersmith (Mr. Soley), in an amazing way, followed up his attack yesterday on Sir Kenneth Newman with an extraordinary attempt to turn this into a party political issue. Anyone reading or listening to his remarks must think that they bear no relation to reality. The only serious point he made was his first point. In that respect, he misread the nature and intention of the so-called peace convoy. However many sites were provided for those people, at the public expense, I do not think that they would stay in them or abide by the law.

Sir David Price (Eastleigh): Does my right hon. Friend accept that, as the law stands at the moment, this remains a Hampshire problem? Hampshire has a good record of resettling gipsies and travellers, but this is asking a bit much. Does my right hon. Friend agree that it is a national problem needing a national solution?

Mr. Hurd: The chief officers of police in Wessex and the Government agencies involved need to continue to put their heads together. I understand from my right hon. Friend the Secretary of State for the Environment that it is not thought that the peace convoy comes within the definition of the Caravan Sites Act 1968.

Geevor Tin Mine

3.55 pm

Mr. David Harris (St. Ives) *(by private notice)* asked the Secretary of State for Trade and Industry if he will make a statement on the Geevor Tin Mine.

The Minister of State, Department of Trade and Industry (Mr. Peter Morrison): After detailed and careful appraisal, the Department has reluctantly concluded that Geevor Tin Mine's latest proposals do not offer sufficiently robust prospects of commercial viability to justify financial assistance on the scale requested. The company has been notified of this decision.

Mr. Harris: I accept that my hon. Friend had to make a very difficult decision, and that Geevor was clearly the most vulnerable Cornish mine, but does he realise that the decision has caused those in west Cornwall deep dismay? I visited the miners last night and they were in a stunned state that was, I am afraid, giving way to anger. One can understand that.

Will my hon. Friend say something more about the £1 million of assistance that the Government are making available to west Cornwall? Will he also say something about the office that he is setting up? Can he hold out some hope to the rest of the Cornish tin industry? Does he agree that the decision does not sound the death knell for the tin industry but that, hopefully, other mines will survive the crisis and perhaps one day, who knows, Geevor will come back to life?

Mr. Morrison: I agree that the decision was very difficult. We have debated the situation in Cornwall, and particularly in west Cornwall, several times and it is, indeed, very difficult.

My hon. Friend referred to the business improvement services. We hope that within a few weeks we shall be able to set up an office in close proximity to Geevor with three officials to administer the scheme. I cannot at present say precisely where it will be. My hon. Friend asked about the future of the Cornish tin industry. As the house knows, other applications are being processed.

Mr. David Penhaligon (Truro): Does the Minister accept that his decision has destroyed a community, a lifestyle and a tradition, and will inevitably lead to an unemployment rate of 50 per cent in the area? Precisely why did the application fail? The Minister said that it was not vigorous enough. How did it fail the test of commercial viability? In reality, is not the message that if those 300 miners bought clapped-out vehicles that did not have MOTs, some wigwams, and semi-trained dogs, and camped out in Hyde Park, the House and Britain's journalists would show far more interest in this tragedy?

Mr. Morrison: The hon. Gentleman has done Cornish tin miners, and particularly those at Geevor, less than a service. All hon. Members have rightly paid great attention to the predicament in which the tin miners find themselves. But the hon. Gentleman grossly exaggerated, when he said that there would be 50 per cent. unemployment, although I accept that the figure is very high and that we are talking about a very depressed part of Cornwall. The application was turned down, like many other applications for regional grants, on grounds of

PRIME MINISTER

INCITEMENT TO RACIAL HATRED: BROADCASTING

The Home Secretary and the Lord President have been considering the question of the broadcasting exemption for the offence of the incitement to racial hatred.

The Home Secretary was keen to extend the offence to films, videos and to other forms of broadcasting such as community radio in the Public Order Bill. The only question was whether the broadcasting authorities should continue to be exempted from the offence. The Home Secretary concluded that they should not, in part because once the broadcasting exemption goes for some media, it becomes very difficult to justify having a dividing line of that kind.

The Lord President, however, was very concerned about the effect on the programme of introducing such a controversial measure in the Lords. The Home Secretary is willing to respect the Lord President's judgement and is content that the offence should be extended to broadcasting, though not to the BBC and the IBA and the Welsh Fourth Channel Authority at this stage. Nonetheless, the writing must be on the wall for them.

The correspondence is at Flag A, and the note from Hartley Booth at Flag B. The Policy Unit have also, reluctantly, concluded that the Broadcasting Authorities should continue to be exempt for the time being.

I do not think you need to intervene.

Mark Addison

MARK ADDISON
3 JUNE 1986

The decision to exempt BBC ITV and channel 4 is I take it only temporary

BM2AOT

CF
PPS please

PRIME MINISTER

3 June 1986

INCITEMENT TO RACIAL HATRED: BROADCASTING

Although both you and the Home Secretary agree that the BBC and IBA should not be above the law and exempt from the offence of incitement to racial hatred, the sensible proposal, to remove the exemption from the extended offence in the Public Order Bill, has hit a difficulty in the House of Lords. The Lord President states that it is so controversial that too much time will be taken up with the proposal. He says that Lord Annan and other Peers closely associated with broadcasting will strongly object and will delay the passage of this Bill in the House of Lords. He cannot guarantee the legislation and, accordingly, Douglas Hurd reluctantly accepts that he will not press the removal of the broadcasting exemption by an amendment put down at the third reading stage in the House of Lords. The Public Order Bill has now passed all three stages in the House of Commons.

We most reluctantly feel forced to agree with the Home Secretary, but note that an amendment might be passed in the Lords which would then have to be reconsidered in the Commons. At that stage, we might have to seriously consider removing the whip if the effect of the amendment was in line with your desire to remove the exemption from broadcasting. We also note that, although the best option has therefore been abandoned for the moment, nevertheless the Bill does cover the proliferating radio stations.

HB.

HARTLEY BOOTH

HOME AFFAIRS

PUBLIC ORDER

PT 2

CCB6

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SW1H 9AT

2 June 1986

Want HB comment.
Please on 4/6 if poss reply.
MGT 2/6

Dear Willie,

PUBLIC ORDER BILL: INCITEMENT TO RACIAL HATRED - BROADCASTING

Thank you for your letter of 21 May.

I quite understand your concern about avoiding new controversial issues in this Bill. As I said in my letter of 20 May, the arguments are finely balanced. Although I believe that the days of the broadcasting exemption are numbered, I would not press that we make a start in tackling it on the relatively minor point which arises on this Bill, in view of what you say about particular difficulties in the Lords. I respect that judgment and am content that the extended offence should include an exemption. I will therefore aim to introduce an amendment in the Public Order Bill on those lines, and unless I hear to the contrary I will assume that I have H Committee's approval to do so.

I am copying this letter to the Prime Minister, the Foreign and Commonwealth Secretary, the Members of H Committee, First Parliamentary Counsel and Sir Robert Armstrong.

Yours,

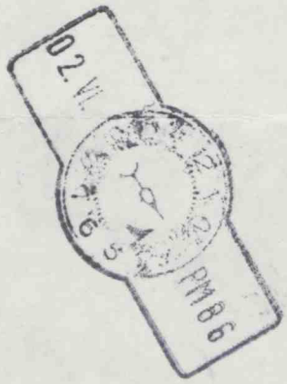
Douglas.

The Rt Hon Viscount Whitelaw, CH, MC

HOME AFFAIRS

PUBLIC ORDER

PT 2



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LPC to HOME SEC. 21/5

PART 3 begins:-

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