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DEPARTMENT
OF JUSTICE

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Dublin 2

Tagairt / Reference :

Mr. Simon Hare,
Department of the Taoiseach.

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SECRET

Dear Simon,

"Standing-down of PIRA"

You will recall that you raised this matter with me arising from a report of a discussion with Sir John Chilcot and that I indicated that this Department would prepare a background note.

I am now enclosing that note which has been prepared within the Department. The Garda authorities have been consulted informally in the matter and have indicated that the material contained in the note is in accordance with their understanding of the position.

Yours sincerely,

P. Hickey.

25 November, 1995.

cc. Mr. C. O'Flinn, Anglo Irish Division, Department of Foreign Affairs.

"Standing down" of PIRA

1. Mr. O'Donoghue's minute of 11 October arising from his conversation with Sir John Chilcot refers.

2. The relevant extract from that report reads:

"He wondered whether there was an avenue worth exploring in the powers reportedly available under the IRA's constitution for the Army to be 'stood down' without the holding of a special General Army Convention. Such a move, if he understood matters correctly, would not require a formal and explicit abandonment by the Republican movement of the armed struggle option. Rather, the IRA would effectively suspend itself but the militant option would technically be retained for possible future use."

The "Constitutional" Position

3. The proposition as put forward is probably strictly correct in PIRA "constitutional" terms because, while their 'Constitution' provides that the General Army Convention is the Supreme Army Authority, the Army Council has power to "conclude peace or declare war when the majority of the Council so decide" and is the Supreme Authority when the General Army Convention is not in session. Moreover the 'Constitution' also provides that a General Army Convention shall not be held while the 'Army' is engaged on active service unless the Army Authority decides otherwise. Available intelligence indicates that in fact only one such Convention has been held since the early 1970s - in

our definitive commitment to its success the leadership of Oglaiġ na hEireann have decided that as of midnight, Wednesday, 31 August, there will be a complete cessation of military operations. All our units have been instructed accordingly."

The Chilcot proposal presumably would require something more than this although precisely what is meant by being "stood down" would require clarification. The phrase in military terms is generally regarded as meaning to go off-duty or to withdraw.

Historical Precedents

6. There is a historical precedent for something that goes beyond the 31 August statement in terms of the decision to end the "Border campaign" in February 1962. That statement (see Annex 2 for full statement) spoke in terms of the leadership of the Resistance Movement having "ordered the termination of the Campaign of Resistance to British Occupation launched on December 12, 1956 ...[and that] All arms and other material have been dumped and all full-time active service Volunteers have been withdrawn." It equally, however, spoke of the Irish Resistance Movement renewing its pledge of eternal hostility to the British Forces of Occupation in Ireland and looked forward to the support of the Irish people in the final and victorious phase of the struggle for the full freedom of Ireland.
7. Bell indicates that the decision to end the Border campaign was taken by the Army Council at a meeting on 3 February, 1962 and that the Army Executive concurred. A Special Army Order issued

1986, in advance of the PSF Ard Fheis, to approve the move away from abstentionism. There is equally no indication of any present intention to convene an Army Convention according to available intelligence. A fuller note on the role and function of PIRA's decision making bodies - the General Army Convention, the Army Executive, and the Army Council - under their 'Constitution' is attached as Annex 1.

Nature of proposal

- 4 The proposition at paragraph 2 was offered by Sir John Chilcot on a purely "personal basis" and seems to be intended to suggest an avenue other than a start to the decommissioning process as a means around the present roadblock. At another level it may suggest a continuing concern on the British side at the status of the PIRA cessation against the background of occasional reports on their side of targetting etc. At the very least it would seem to imply a desire for a decision or statement which goes beyond the cessation announcement on 31 August, 1994. (This is not without echoes of the controversy about the permanency of the cessation which followed the August statement). At most it could represent the logical extension of the British position which would see disbandment of PIRA as ultimate proof of the democratic credentials of Sinn Fein.

PIRA's Statement of 31/8/94

5. The 31 August 1994 statement stated in part:

"Recognising the potential of the current situation and in order to enhance the democratic peace process and underline

in advance directed all IRA units to dump arms and move back. The historical circumstances of that decision are, however, quite distinct from those which prevail today given that the Border campaign was generally perceived to be a failure with little or no popular support to sustain it - something recognised in the IRA statement - and the organisation was seriously weakened by security force action North and South. This may also help explain the fact that the statement was issued in the name of the leadership of the 'Resistance Movement' rather than Oglagh na hEireann.

Conclusions

8. It is not clear what precisely Chilcot has in mind in terms of a PIRA initiative to stand down the organisation. Clarification would be useful and a suitable opportunity might be taken to sound him out.

9. Chilcot would seem to be correct in his analysis of the 'constitutional' possibilities. It is, however, probable that it would be difficult for the leadership to move significantly beyond the terms of the 31 August statement at this stage - particularly against the background of the decommissioning controversy - without running the risk of provoking dissention within the organisation and being faced with demands for the convening of a General Army Convention. Such a call could prove increasingly difficult for the leadership to resist in the continuing absence of an armed campaign.

10. It is also unlikely that the 1962 precedent - even, if accepted, as representing movement in the direction of a decision to 'stand down' - would find favour with the PIRA leadership because of the circumstances which prevailed at that time. That precedent would equally be unlikely to find complete favour with the British when seen in its full context.

11. Accepting those difficulties, it may well be that possibilities will emerge in the coming months for the PIRA leadership to clarify their position further in the context of the proposed decommissioning initiative. The manner in which that initiative is framed will obviously be important in terms of providing maximum scope in this regard.

Department of Justice

Role of General Army Convention and other bodies
under the IRA "Constitution"

1. The "Constitution" of Oglaiġ na hEireann provides that the General Army Convention shall be the Supreme Army Authority and that the Army Council shall be the Supreme Authority when the General Army Convention is not in session. The Convention is also specifically responsible under the Constitution for electing the Army Executive. The General Army Convention, as set out in the Constitution, is made up of:

- delegates selected by Battalion Conventions;
- delegates selected by General Headquarters Staff and Staffs of Brigades, Divisions and Commands;
- 2 members of the Army Executive;
- all members of the Army Council;
- the Chief of Staff, Adjutant General and the Quartermaster General.

Only volunteers on the "Active List" are eligible to be delegates to a Convention.

2. A General Army Convention should in theory meet every two years unless a majority of delegates decide otherwise but the Constitution also provides that a Convention shall not be held while the 'Army' is engaged on active service unless the Army Authority decides otherwise. Intelligence available to the Gardai suggests that in fact only one such Convention has been held since the early 1970s - in 1986, in advance of the PSF Ard Fheis, to approve the move away from abstentionism.

3. The Army Executive, which is elected by the General Army Convention, consists of twelve persons and is responsible for selecting the Army Council. Casual vacancies on the Army Executive can be filled by co-option.

4. The Army Council selects the Chief of Staff. The powers of the Army council are prescribed by the Constitution and include the power to "conclude peace or declare war when the majority of the Council so decide". In practice the Army Council has planned, organised and overseen the strategy, pace and conduct of the campaign in the last twenty five years.

Statement issued on 26 February, 1962 announcing
the end of the IRA Border Campaign

To the Irish People

The leadership of the Resistance Movement has ordered the termination of the Campaign of Resistance to the British Occupation launched on December 12, 1956. Instructions issued to Volunteers of the Active Service Units and of local Units in the occupied area have now been carried out. All arms and other material have been dumped and all full-time active service Volunteers have been withdrawn.

The decision to end the Resistance Campaign has been taken in view of the general situation. Foremost among the factors motivating this course of action has been the attitude of the general public whose minds have been deliberately distracted from the supreme issue facing the Irish people - the unity and freedom of Ireland.

* * *

The Irish Resistance Movement renews its pledge of eternal hostility to the British Forces of Occupation in Ireland. It calls on the Irish people for increased support and looks forward with confidence - in cooperation for the final and victorious phase of the struggle for the full freedom of Ireland.

Source: Bell The Secret Army.