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ROINN AN TAOISIGHNorthern Ireland

Taoiseach

As arranged, Messrs Ward, Donlon and Ambassador Dorr, with the undersigned, met Sir Robert Armstrong, Cabinet Secretary, and Messrs Goodall, (FCO), Brennan (NIO), and Mallaby (Cabinet Office) in London yesterday from approximately 10.30 a.m. to 3 p.m., including lunch. The meeting was, as usual, friendly, but did not, on the surface, produce much in the way of hope or results.

We pointed out the large number of items which were, at present, stalled. We said that the non-delivery of these items was producing two effects - it was giving substance to "nationalist" criticism of the Agreement while, at the same time, the Agreement was sufficiently in evidence to continue to irritate the Unionists. Unionists were now using the argument that though the Agreement existed, their campaign of opposition was making it ineffective.

At the same time, on our side, there were a very considerable range of items on which agreement had been reached, and which had been or were being implemented. These items were in the security area and there were obvious difficulties about publicising them. At the same time, there was little or no evidence of balancing implementation under Article 7(c) which dealt with the improvement of the relations between the security forces and the community in Northern Ireland. This was not, in any way, to deny that there had, in fact, been an improvement between the RUC and the nationalist community over the last year or so. Our argument was that the items listed specifically under Article 7(c) were being ignored while, at the same time, we were implementing a very large number of new and expensive cross-border security operations.

We argued that insofar as the extradition legislation was concerned it was not simply a matter of "maximising" the chances of the Bill's successful passage. It was, quite simply, that with the present state of non-delivery in matters affecting the administration of justice that the legislation was, in our judgement, unlikely to pass. In effect, the Courts were already implementing judgements which went a very long way towards implementing the purposes of the Convention. On one argument, it could be said that the Convention would add very little to the extradition process but that it was necessary, as a high profile operation, on our side, to satisfy Unionist perceptions.

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The Government genuinely wanted to proceed as rapidly as possible with the legislation but needed something to enable them to do so. We had proposed, first, mixed courts, and then, 3-man courts, as our proposal for getting over the difficulties. Both of these options had now been rejected by the British. What were they now suggesting in ~~the~~^{their} place?

We asked if there was anything which could be done on the question of supergrass trials. What, for example, did the rather cryptic reference in the Prime Minister's letter to cases involving multiple defendants mean, precisely? Was there any way in which this could be fleshed out more? The British side said they would give attention to this.

On the question of the distribution of court business, they ruled out any possibility of the creation of a new office equivalent to that of President of the High Court here - more or less on the grounds that this was the Lord Chancellor's demesne and they wanted to stay clear of it.

Similarly, they ruled out, but not quite so strongly, any suggestion of increasing the number of judges, though they appeared to be sympathetic to the idea of a more balanced mix of religions in the judiciary. This would, however, take time.

We asked if there was anything which could be done in relation to remand and trial, particularly on the length of time persons were detained. Was it possible to answer the charge that present court procedures in Northern Ireland were, in effect, the equivalent of internment?

We urged that the other items listed in the Prime Minister's letter should be fleshed out, as far as possible. For example, was there any possibility that the reference to the Attorney General's increasing the range of scheduled offences where there would be a jury trial being extended or modified in such a way that there would be jury trials for persons extradited for such offences? The British side said they would take note of this point. They did, however, say that there would obviously be invidious comparisons made between persons charged with these crimes in Northern Ireland, who would not get a jury trial, and those extradited who would get such a trial, under any such arrangement. Further, the reasons why juries had been done away with in the first place - so as to obviate the possibility of terrorist influence would apply. To this we said that we were not ruling out extraordinary measures such as, for example, screened juries.

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On the codes of conduct, this was moving along in RUC, etc. channels. The comments of Chief Constables were expected soon. The area was particularly sensitive and was not susceptible to forcing or rushing to meet particular deadlines.

We emphasised that if a statement or presentation of any sort was to be made it would have to be ready before approximately 7th November, if the legislation here was to be got through before Christmas, which was a critical date. The British side took note of this requirement.

The fact that the debates on the Bill would not necessarily concentrate solely on its contents was stressed. Shadows were overhanging the entire operation - including, in particular, the Stalker/Sampson affair and other issues affecting even the judicial system in the U.K., to which McKee had made reference in his recent book (Guildford Four etc.). Without the sort of announcement that we were talking about, the entire debate would be overcast with these atmospherics. The British side said that the first part of the "Stalker" report had gone to the DPP and part II was likely to go to him towards the end of November. In effect, therefore, there was unlikely to be a decision in this area in the next few weeks.

The British side said that they expected that the issues we had been discussing would be discussed in more detail between the Minister for Justice and the Secretary of State at their meeting on Friday.

I also discussed with Armstrong the question of a meeting with the Prime Minister at the end of November. He is to come back on this.

Other points made during the discussion were that though delivery under the Agreement might not have been as full as some would have expected there were very considerable achievements to be reckoned with. First of all, who would have said a year ago that there would an institution in existence in Northern Ireland through which the Irish Government could have an input, formally, to the running of the Province. The joint secretariat was up and working well, in reasonable comfort, and in secure conditions. There had been very considerable progress in improving relations between the RUC and the community. Their acceptability among the nationalist population was now higher than at any time in the recent past. The number of complaints about their actions appeared to have diminished considerably. It was inevitable that there should be some impatience for visible signs of action under the Agreement but on both sides now elections were impending.

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The latest date for the British was June 1988 and the Prime Minister was saying that she would go on until then but nobody really expected that. There was a degree of "looking over shoulders" at the Unionist community. When the Agreement had been signed we had made a judgement that what it did was just below the threshold of protest - just below the point where the ~~problems~~ ^{frictions} could be made unworkable or ungovernable. In that we had proved to be right. A large majority of Unionists didn't like the Agreement which had changed their position, irrevocably. There were forces of reason within the Unionist community now, particularly in the business and academic world. They must be given time to work their way through to the political leadership, without undue provocation. We should act pragmatically and not push the Unionist community over the line. That was really the keynote of policy at present.

Individual items of non-delivery which were raised and discussed in some detail were -

- (1) public order regulations
- (2) Irish language/street names
- (3) "I" voters
- (4) codes of conduct
- (5) progress in the accompaniment of the UDR by RUC
- (6) the reluctance of some Northern Ministers to describe meetings with Southern counterparts as meetings of or within the framework of the Conference (Ministers for Health, North and South) etc.

If any statement is to be made, it will be for consideration whether it should be made at Secretary of State or Prime Ministerial level. There are arguments either way.

on

30 October 1986.

Copies to: Tanaiste, Minister for Foreign Affairs, Minister for Justice, Attorney General, Ambassador Dorr and Messrs Ward, Donlon, Russell, Lillis and O Tuathail.

P.S. Ambassador Dorr is preparing a fuller note.

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