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Mr B. *Carling*
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ROINN AN TAOISIGH

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Uimhir.....

Northern Ireland

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- Vella
- talks with
Borah
J.S.

Ambassador Fenn called, by arrangement, at 4 p.m. today, to say that he had just spent five hours at a meeting with Foreign Secretary Howe and Secretary of State King to get briefing on present difficulties.

He said that, initially, feelings in London had been running very high but were less so now. There is a growing recognition of the depth and extent of anger and frustration here. The British Government, who had discussed the situation this morning, are determined to do whatever they can to restore confidence and co-operation.

However, they were both politically and systematically inhibited from measures which would meet the Irish demands to the full. For a start, the Attorney General was completely independent in the performance of his quasi-judicial function. The Government did not and could not tell him what to do. He is completely independent in deciding on whom he should consult on questions of security or public interest; and, as he had indicated, he had to take into account the balance of damage which might be done by whatever decision he took.

Similarly, the system made it next to impossible for the Home Secretary to interfere with the judgement of the Appeal Court. One way or another, however, this would not be opportune at present because the appellants had sought leave to appeal to the House of Lords. The actual position is that they have not yet lodged this appeal but their solicitor has indicated that they would be doing so. They have up to about the end of the month for the lodgement of the appeal. If the Court of Appeal does not allow the appeal to the House of Lords, they have the option of going direct to the House of Lords for a decision as to whether an appeal will be heard. On the question of whether, if there were a possibility of any ameliorating move by the Home Secretary, the appellants would withdraw their appeals, the Ambassador said that he had not had an opportunity to consider this but that the comments on the standing of the judgement of the Appeal Court must be borne in mind.

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In summary, the Ambassador said that the existing list of demands simply cannot be met. They were, however, ready to do other things. There were four different formulae to meet present difficulties on extradition. (Here, I said that this met British needs - as much as Irish needs.)

Next, Secretary of State King was very conscious of the accusation that the RUC might be regarded as a tainted force. He would, therefore, be ready to take disciplinary measures against those responsible in the force.

Next, the McLachlen report would be largely implemented - so as to reform the command structure of the force.

Next, they would do more or less what we wanted in relation to the border incursions question referred to by Constable Robinson.

The Ambassador went on to say that the Secretary of State would be saying very little of this at the meeting in London this afternoon with Ministers Collins and Burke. This was simply so as not to pre-empt a possible meeting of the Taoiseach and Prime Minister in Brussels.

He hoped that it would not be taken amiss that the meeting in London would take the form at present planned for it.

If the meeting with the Prime Minister took place in Brussels, he would expect that she could well use rather robust language, as was her custom. But, following the discussion at Cabinet this morning, she would recognise the real difficulties. So far as he knew, she would also be determined to do what can be done to resolve them. He thought that it might be no harm at all if the Taoiseach were to stress, at the meeting, his desire to be helpful but the very strong political pressure with which he had to deal. He thought that it would, perhaps, be wise if the statement after the meeting were to refer to a useful general discussion and a referral forward to the meeting of the Anglo-Irish Intergovernmental

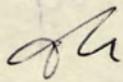
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Conference, due, on present plans, on Tuesday next week. He emphasised again that the underlying British desire was to be as constructive as possible in as many ways as possible. On the Birmingham Six case, he said that it was not the practice of Secretary of State King to say "never" - whatever the Prime Minister's reaction might be. On the other main issues between us, he said that though the British response was probably not sufficient in our eyes, there were many other ways in which Irish concerns could be met. In all of these the British would be trying to be as helpful and constructive as they could to restore relations generally.

During the meeting, the Ambassador struck me as attempting to be as helpful as possible - without being in a position to offer substantive response.



Dermot Nally

10 February 1988.

Copy to:

Secretary Dorr, Department of Foreign Affairs.
Assistant Secretary Gallagher, Department of Foreign Affairs.
Secretary Mathews, Department of Justice
Assistant Secretary Brosnan, Department of Justice.