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Anglo-Irish Conference - Wednesday 4th May, 1988

1. The main items on the agenda will be Fair Employment, a possible economic package for West Belfast, consideration of a joint approach by both Governments to the EEC for support for the International Fund and the question of a review of the cases of young offenders serving indeterminate sentences (SOSPs).

2. Fair Employment

The British White Paper on Fair Employment will be published on the 27th of May. We believe that it will still be in fairly general terms and that there will, therefore, be a further opportunity before the introduction of legislation (probably October) to continue our representations about the content of the legislation.

3. While the British have responded positively to a number of points we put to them over recent months, there are still a number of issues which need to be clarified. These, briefly, are as follows:

- (a) The Tribunal (which will hear individual cases of discrimination and, secondly, appeals from employers on directives against them on pattern discrimination made by the Commission) will now not be a free standing body but will be part of the existing Industrial Tribunals system, albeit as a separate stream. This will be broadly welcomed and will help to ensure that there is less danger of the fair employment machinery being perceived as a two-headed monster, with Commission and Tribunal potentially in a status conflict with each other.

In a small society such as Northern Ireland, it is however politically of great importance that particular attention be paid to the personnel of a sensitive institution such as the new Tribunal. The existing Industrial Tribunals consist of a Chairman and two lay assessors, the latter being drawn

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from each side of industry. It is, however, important that the personnel of the Religious Discrimination Tribunal be drawn from outside these existing panels. The (political) reason for this is that the positions of trade unionists and, in particular, employers on the religious discrimination issue would, to say the least, be uncertain. Moreover, religious discrimination is an issue which transcends the traditional employer/trade union relationship. It is important, therefore, that a separate Chairman be appointed for the Tribunal and that a separate, specialised panel of lay assessors be drawn up to serve on it. Some of these, for instance, might be academics and some indeed might be Trade Unionists, though they would be selected on a personal basis.

- (b) Secondly, it is essential that the Commission be empowered to give every possible support to individuals who come to it with bona fide discrimination complaints against employers. This is the case with the present Fair Employment Agency and it would be disastrous if there were to be any pulling back from it. The SDLP attach particular importance to this issue.
- (c) There is, thirdly, a certain ambiguity between the Commission being in a position to issue a directive (with targets and a timetable) against a firm, in the case of pattern discrimination, and what might be called an escape hatch for the employer in that the directive has to take its place along-side the continued operation of the merit principle. In other words, if a firm takes the various steps required of it by the directive (e.g. advertises in Nationalist newspapers), and yet fails to meet the desired targets and time-table set for it, then it appears that no action can be taken against it. The British will not agree to targets and time-tables being made mandatory, as they feel this would be the equivalent of reverse discrimination or quotas. What we need to do, therefore, is to press them to ensure that the system, while perhaps not being mandatory, is such that employers will have no option in

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practice but to ensure that targets and time-tables are complied with. This is an aspect on which the Americans in particular are likely to focus, in judging the effectiveness of the new arrangements, and one on which we can use the American card to the full. The British side should in short be pushed hard to respond to our doubts and worries on this aspect.

- (d) There remains finally the question of an overall target against which the effectiveness of the new legislation can be measured in due course. The Standing Advisory Committee on Human Rights in the North (SACHR) suggested a target of reducing the present unemployment imbalance from 2.5:1 to 1.5:1 over five years. This seems reasonable. The British, on the other hand, are talking about a general review of the effectiveness of the legislation after five years, without a very precise indication as to how that effectiveness can be measured.

4. West Belfast

We had hoped that the British would be in a position to come to Wednesday's meeting with a package of measures for disadvantaged areas in Belfast (in effect West Belfast). However, and while they appear to continue to be strongly supportive of special measures for the area, they are as yet not in a position to give us any information about the proposed package, though we understand that a study has been completed and sent to the Secretary of State. They should be actively pressed on this on Wednesday and, in particular, asked for a commitment to bring forward a package by a specific early date.

5. International Fund

In spite of the apparent support in the Foreign Office and the NIO for a joint approach to the EEC for a contribution for the International Fund, the Treasury is still blocking British agreement on the issue. We should again underline the political importance of a joint approach. If we fail to agree on this,

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there is a real possibility that the Americans will not continue their contribution into a fourth year. If this happens, it will be perceived as de-internationalising the Agreement to a significant degree and, secondly, it will in addition be seen by many as a serious undermining of the Agreement. The issue of a joint approach to Europe, therefore, has a far greater significance than the monetary amount involved.

6. SOSPs

We had a useful discussion on this at the last Conference, when the Secretary of State indicated that he would be prepared to look sympathetically at the position of these young offenders. Since then, the British have given us statistics which support our view that recidivism was not a problem in the cases of the SOSPs who have already been released. We might press the British to let us know when they expect to be in a position to make an announcement on this issue.

7. Gibraltar

We might say that we were disturbed by the "evidence" shown on the This Week programme. We might then express the hope that the inquest will help to clarify matters and that any further legal action deemed necessary will be taken.

8. Stalker-Sampson

We should enquire when the findings of the present disciplinary proceedings are likely to be submitted to the Secretary of State and to the Police Authority. We had expected, and had been led by the British to believe, that this part of the proceedings would have been completed quite some time ago.

Dermot Gallagher

2 May, 1988.

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West Belfast

Speaking Points.

We agreed at the last Conference that we would consider the exceptional economic and social problems of West Belfast at an early date and how these might best be tackled. We understand that your officials have in fact completed a study of the problem and that they have recently submitted this to you. We would appreciate being filled in on the study's findings? As you know, we attach the greatest importance to the early economic regeneration of the area. It has the highest level of unemployment in the North with, in some areas, the rate of unemployment being as high as 80%. In a sense, it is difficult to see how we will ever be able to claim significant progress in tackling the North's problem unless we take on, and show we are serious about, the "hard" areas such as West Belfast.

Bishop Cahal Daly has forcefully underlined the connection between the social and economic deprivation in West Belfast and support for the paramilitaries. The PIRA are very much aware of this and are happy to keep the area in its present state of demoralisation. We all agree that this situation must be urgently addressed. The question is how best to do this and within what time-scale.

Overall, I think you will agree that, if we are to come out of this Conference with credibility unimpaired, we need to be able to demonstrate that West Belfast is receiving immediate and positive attention within the framework of the Conference. We would appreciate, therefore, hearing at first hand your thoughts and proposals for the area, and the time-scale you envisage for implementing these.

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Background Note

Greater West Belfast has a population of 100,000 (approx), of which the over-whelming majority are nationalists. The overall level of unemployment is over 35%. In certain nationalist areas, the rate of unemployment can be as high as 80%. The worst in this regard are Springhill, Turf Lodge and Ballymurphy.

The president of Sinn Fein, Mr Gerry Adams, was re-elected as MP for the area in the British general election of June 1987. He polled 16,862 as against 14,641 for the SDLP's candidate, Dr. Joe Hendron (a margin of 2,221). Support for the PIRA is strongest in those areas exhibiting the worst features of social and economic deprivation. Pockets of relative affluence (e.g. Andersonstown) are unlikely to survive further economic decline. There is a disturbing trend emerging where business and professional people are moving out of the area.

The special needs of West Belfast have not been addressed in the Belfast Urban Area Development Plan. The absence of proposals for the allocation of land for industrial development, shopping amenities and training facilities in the area, in contrast to the extensive city centre and Laganside projects, is seen as further evidence of neglect by the authorities in the North of the problems in West Belfast.

Recently, the SDLP and Bishop Cahal Daly have reiterated calls for a special economic initiative for the area. The matter has been raised through the Secretariat; a meeting at official level has already taken place and another was requested for in advance of this Conference. The British side asked for a postponement as the Secretary of State has yet to consider the report of an official study of the area.

The International Fund has recently allocated £50,000 to finance a study (to be commissioned by the SDLP-run Phoenix Trust) of successful economic initiatives operated in deprived urban areas in Europe and the U.S. It has also earmarked £10,000 to finance the appointment of a consultant to develop the West Belfast Enterprise Board's proposals.

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BACKGROUND NOTE

PRISON ISSUES

- The early release of Private Thain after serving only 2 years and 2 months of a life sentence has again brought into sharp focus the prison regime in N.I. and particularly its life sentence policy. The impending release of one of the supergrasses, Kevin McGrady, after serving 6¹/₂ years on a double murder charge, while not yet in the public domain, is likely to intensify public attention on life sentence policy in Northern Ireland.
- There are 409 paramilitary life sentence prisoners in N.I., 31 of whom are held at the Secretary of State's Pleasure (SOSP's) - i.e., convicted of an offence committed while under 18. The Life Sentence Review Board (LSRB), which is a civil service body, review cases after 10 years in the case of Lifers and after 8 years in the case of SOSP's and recommend provisional release dates about 1 year prior to release of prisoners on licence (i.e. he can be recalled to prison at any time to serve the remainder of his sentence).
- Private Thain was 18 when he committed his offence and his early release has led to a particular focus on the case of SOSP's (who were younger than Thain when they committed their offences). Often as not, SOSP's had a marginal involvement in, and little prior knowledge of, the offence for which they have been convicted and many of them have, at this stage, served lengthy periods in prison (e.g., Mailey 15 years, Cunningham 13 years, Dines 12 years, Catney 12 years, Roberts 11 years, Burke 11 years, Dillon 10 years etc).
- There is an obvious contrast between the situation of these SOSP's and Private Thain. Secretary of State King in the Commons on 25 February, while refusing to equate State violence with paramilitary violence, expressed his sympathy with the situation of "young people who may be easily

influenced by older people who found themselves drawn into a situation which they now bitterly regret".

- This focus on SOSP's is particularly pointed at the moment and is being used by campaigners like Fr. Denis Faul as "the weakest link in the chain" of British Prisons policy in N.I. The wider issue of the life sentence regime and of conditions within the prisons themselves are at the same time matters of particular concern and sensitivity in N.I. Criticism in these broader areas is centred on the following issues:

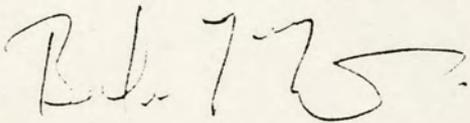
- There is no "understanding" at present as to the likely length of an indeterminate sentence nor any transparency as to what criteria are employed by the LSRB in arriving at a decision.
- There are a number of cases of prisoners who have served long sentences, who have co-operated with the LSRB, who have taken the major step of disassociating themselves from their paramilitary group and who still have not been provided with provisional release dates. These examples, coupled with the lack of transparency in the considerations taken into account by the LSRB (prisoners are never told why they have not been given release dates) tend to undermine the procedure itself. At present, while most Loyalists co-operate with the LSRB, only about 40% of Republicans are at present prepared to co-operate. (There are, however, indications at the moment that an increasing number of Republicans intend to co-operate with the LSRB).
- There is considerable criticism of the policy of transferring paramilitaries who have been given release dates, from the segregated conditions at the Maze to the integrated conditions at Magilligan. This has created considerable resentment at what is seen as a last minute attempt to turn the clock back on the hunger strike agreement by "criminalising" them just prior to release.

- Within the prisons themselves there are two particular points of concern at present:
 - Interwing Association: There is a strong perception of constant attempts to turn the clock back on the hunger strike through attempts to impose a series of petty restrictions - the most serious of which are restrictions on interwing association within the H blocks at the Maze.
 - Parole: There is a recognition that the N.I.O. were relatively generous in the provision of Christmas parole in 1987. Complaints persist however on the issue of compassionate parole - viz - the length of time provided is unduly restrictive and such parole tends to be confined to death and serious illness of a member of the immediate family.
 - Maze Compounds: There are 90 Special Category prisoners remaining in the various paramilitary compounds in the Maze. Owing to (i) the high cost of guarding such a small group of prisoners in special circumstances and (ii) the fact that the existence of what is effectively Prisoner of War status contradicts the policy of criminalisation, there are very strong rumours at present that the Compounds will be closed in the near future. This will mark the end of Special Category prisoners and is an issue of acute sensitivity. The remaining 90 prisoners have all served at least 10 years, so the question as to whether they will be provided with release dates as an inducement to move to the H Blocks inevitably arises. British intentions on this are not yet clear.
- A generous and humane prisons policy is an issue which attracts an unusual amount of support right across the political divide in N.I. There is considerable force in the arguments of Fr. Denis Faul that generosity on the

prisons issue could have an enormous political impact in eroding the bedrock support for IRA/Sinn Fein which is provided by the extended families of prisoners. It is now admitted by the British that no Lifer or SOSP released has ever returned to paramilitary crime so that there is little risk to the Community arising from a generous release policy. Given the political importance of prison issues in N.I., a number of signals could be given which would have a beneficial effect in the wider political context - viz.

- The provision of provisional release dates to all SOSP's who have served 8 years or more.
- The granting of provisional release dates for those still in the Compounds in the Maze.
- The elaboration of an understanding of what in practice a life sentence will mean for a prisoner - say 15 years, coupled with clear guidelines as to criteria for a prisoners behaviour in order that he can earn remission of his sentence to say, 7-10 years. (The levels to be set for SOSP's should of course be set at a lower level).
- A more open and responsive policy on the transfer of prisoners from Britain to N.I. (So far, only 4 prisoners have been transferred and there are currently about 50 paramilitary prisoners held in Britain). This would be in accord with stated Home Office policy that prisoners should serve their sentences close to where their families live.
- A cessation of the policy of transferring paramilitary prisoners for the years prior to release, from the segregated situation at the Maze to the integrated situation at Magilligan.

- The above are some significant reforms which could provide clear political signals - particularly to the families of prisoners, and which would attract support from across the political divide without, at the same time, having a negative impact on the security situation in N.I. In addition, the question of providing some form of public hint linking prison release and the overall level of paramilitary violence should be raised. This is an issue which was discussed in some detail prior to the Anglo-Irish Agreement and which has been discussed with the British on a number of occasions. Such a public hint could generate very significant pressure on the Provisionals who are particularly vulnerable to pressure from the families of prisoners.



Brendan McMahon,
2 May 1988.

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Speaking Points

GIBRALTAR

We would like to say a brief word about the Gibraltar incident.

First, let me say that we were appalled by the attacks on British Army personnel in the Netherlands on Sunday. As you know, the Taoiseach issued a statement totally condemning the three murders.

Frankly, we were disturbed by the evidence provided to the ITV This Week programme which suggests that there was opportunity to arrest the three IRA members in Gibraltar and indeed that two of them appeared to surrender. We are aware that this evidence has itself been disputed and we await the inquest. We strongly hope that the inquest will clarify things fully and that any further enquiry or legal action necessary to uphold the rule of law will be taken.

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