



An Chartlann Náisiúnta National Archives

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SECRET

Intergovernmental Conference, 14 December 1988

OVERVIEW

Fr. Ryan Case

1. It seems likely that the British will try and raise aspects of the Fr. Ryan extradition case at the Conference. However, given that the decision of the Attorney was taken in his legal capacity, it would not be appropriate for Ministers to enter into a discussion on the substance or merits of the decision. The Attorney's decision was his responsibility, and his only, under the law, was taken on Monday afternoon and was communicated to the Commissioner of the Garda before the Taoiseach was informed.

Other Extradition Aspects

2. On the wider extradition issue, the British (via a letter on 2 December to the Tánaiste) have submitted views on ways in which our legislation might be amended to make it (in their view) more effective.
3. It is likely that the British will ask Ministers for an initial response to these suggestions. It is for consideration whether we should give them a sympathetic signal to one or more of their suggestions (e.g. extradition requests should be dealt with in the first instance in the High Court or in a single designated District Court; a person should continue to be held in detention while a "case stated" procedure is continuing; the provisional warrant arrest period should be extended beyond three days; the specified point of departure requirement should be removed). If it is decided not to give any specific

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response at this stage to the British suggestions, we can say that their paper will be given careful consideration.

Criminal Law Jurisdiction Act (CLJA)

4. John Hume told us last week that Tom King, in a private conversation, had agreed with his view that consideration of how to use the CLJA more effectively might be included as part of the Review procedure. It might be worth sounding out the Secretary of State on his current thinking on this.

Confidence Issues

5. Harassment: While we have not made as much progress as we would have wished on this, there have been two recent developments which do represent a move forward. These are the establishment of monthly overview meetings by the NIO to monitor complaints and any emerging patterns of harassment. The Secretariat can have an input into these meetings and the NIO are also agreeable that we be briefed afterwards. In addition, the Army have recently agreed to reply to complaints on harassment within three weeks.
6. Accompaniment: The Communique should reiterate the principle set out in the Communique which accompanied the Agreement that "save in the most exceptional circumstances, there is a police presence in all operations which involve direct contact with the community". In reality, however, the (further) reiteration of this principle will not carry much credibility unless it is accompanied by some visible progress on the ground. In this regard, a possible pragmatic (and visible) way forward might be, if the British agree, to announce that all fixed (including border)

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checkpoints will, with immediate effect, have an RUC presence.

Administration of Justice

7. We have made no progress on the three-judge courts issue nor, in reality, can we expect to make any in the foreseeable future. We should keep the issue on the agenda, however. In due course, there will be some further, albeit limited, reform (e.g. modification of the form of juror's oath used in the North).

Fair Employment

8. We should welcome the fact that the Fair Employment Bill will be published on Thursday. However, our detailed comments will have to wait until after the Bill is published.
9. In the tête-à-tête, the Tánaiste might have a word with the Secretary of State about the personalities to head both the Fair Employment Commission and Fair Employment Tribunal. In Northern Ireland, the credibility of the people chosen to head these bodies will be an important factor in the perception of the new arrangements. We are reasonably reassured by current indications that Bob Cooper is likely to continue to head the (strengthened) Commission, and that the Tribunal might be headed by a senior Catholic barrister (Hugh Kennedy is mentioned, as is also Jim Brady; either would be very acceptable).

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West Belfast

10. The Tánaiste succeeded earlier this year in having £10m allocated to West Belfast for 1988. The British have now agreed to give a further allocation of £55m (i. e. £18m a year) over the next three years. We should welcome this and express the hope that it will be extended to other disadvantaged areas in Northern Ireland.

Review

11. The Communique might note the on-going work on the Review and perhaps state that the January Conference will have a full progress report before it. (The British have been slow to establish committees, as agreed at the last Conference, and work is not as far advanced as we would have wished. However, we need not make too much of an issue of this at the Conference as the matter is being resolved at official level.)

Prisons Issues

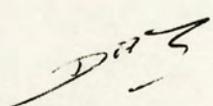
12. The Communique might refer to the on-going SOSP and Special Category reviews and express the hope that they will be completed at an early date. It might also mention that Christmas parole for prisoners had been discussed at the Conference (we have been told in private by the NIO that this is likely to be very generous).

Duisburg Initiative (i. e. meeting of Northern party representatives in Duisburg last October)

13. This might be mentioned at the tête-à-tête. The Tánaiste might like to say in response that there appears to be a lot

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of confusion about what, if anything, had been agreed at the meeting. The organiser of the meeting, Mr. Spiecker (pronounced 'speaker'), has sought a meeting with the Taoiseach. The Taoiseach is considering this but it is more likely that Spiecker will be seen by the Tánaiste. We should have a clearer view after this meeting of the situation and we can keep in touch with you about it. Overall, however, the initiative would need to be treated with caution and we doubt, from what we have heard to date, if it is likely to lead anywhere.



Dermot Gallagher
13 December 1988

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Fair Employment
Speaking Points

- We were glad to have sight of the draft Bill and to have had an opportunity to examine it over the past few days.
- We would plan to issue a statement tomorrow which will be generally positive, and will indicate some of the aspects of the Bill that we consider particularly important. We will also sound a few notes of caution especially about the importance of effective implementation.
- The ground had been worked over very carefully by our officials in advance so there were few surprises in the draft Bill. We were pleased to see that you were able to include a provision for the Tribunal to impose fines. We were disappointed however, that the treatment of affirmative action and outreach measures remains weaker than we would feel is required.
- The institutions that will implement the new legislation are of course crucially important. The appointment of the new President of the Fair Employment Tribunal is a matter that we are following very closely - psychologically as well as substantively, this will be a key appointment.
- In a sense, this is the beginning of the road rather than the end. Once the Bill gets through Parliament - and I would be interested in your views about likely amendments there - the important thing will be to see practical results on the ground.
- (If asked) The MacBride campaigners will obviously make their own judgements about how far the legislation meets their requirements. We will of course ensure that our comments about the Bill are widely circulated in Irish America.

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West Belfast

West Belfast - Speaking Points

The package of measures for disadvantaged areas of Belfast which
- The announcement of £55m to be spent over 3 years in
was addition to the £10m you announced in July is a welcome
of indication of your commitment to addressing the serious
so problems of West Belfast.

- The problems are serious and deeply rooted and will require
considerable effort to resolve them. But this contribution
is helpful and should be welcomed in the Communiqué. I would
like to see the allocation used in particular to strengthen
and support organisations such as the Phoenix Trust and the
West Belfast Enterprise Board.

- It would be a great boost if, in due course, this initiative
could be extended to other disadvantaged areas in Northern
Ireland. education, including the opening of a new Further
Education College.

The Sinn Féin's statement of the 19 July welcomed the announcement
as "a first step in tackling the serious problems of
unemployment, poor rate of economic activity, environmental health
and further education" of West Belfast and went on to hope that
"the programme would be sustained and that there should be an
ongoing commitment to deal with the problems of West Belfast and
other disadvantaged areas".

While the measures undertaken so far represent a good start we
have some reservations about their impact on the problem. The
new proposal to spend an additional £55m over the next 3 years
will of course be welcome. However, the problems are very deep
seated and require considerable resources and energy from
w1840 Government. We are not convinced that the £10m and £55m
over 3 years will be sufficient.

We believe that the best way to help West Belfast is to use
the organisations which are on the ground there. We would like

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West Belfast
Steering Note

The package of measures for disadvantaged areas of Belfast which amounted to £10m extra funding this year above normal expenditure was announced by Secretary of State King on 19 July 1988. Some of the effects of the new funding on the ground in West Belfast so far are:

- the introduction of the Belfast Action Teams (BATs) by the NIO to look into ways to improve the environment and to encourage local groups in employment creation.
- the provision of local enterprise programme (LEP) schemes to train local youth;
- additional ACE (Action for Community Employment) jobs; and
- aid for education, including the opening of a new Further Education College.

The Tánaiste's statement of the 19 July welcomed the announcement as "a first step in tackling the serious problems of unemployment, poor rate of economic activity, environment, health and further education" of West Belfast and went on to hope that "the programme would be sustained and that there should be an ongoing commitment to deal with the problems of West Belfast and other disadvantaged areas".

While the measures undertaken to date represent a good start we have some reservations about their impact on the problem. The new proposal to spend an additional £55m over the next 3 years will of course be welcome. However, the problems are very deep seated and require considerable resources and energy from Central Government. We are not convinced that the £10m and £55m over 3 years will be sufficient.

We believe that the best way to help West Belfast is to use the organisations which are on the ground there. Principal among

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those whom we support are Phoenix Trust - which has so far received no assistance from the NIO principally because of its connection with the SDLP - as well as the Catholic Church sponsored West Belfast Enterprise Board.

We would suggest that the Belfast programme be extended to other disadvantaged areas of Northern Ireland (e.g. Derry, Strabane, Cookstown, Newry etc.) which are also in need of assistance.

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Confidential

Steering Note

EXTRADITION

The principal points in the Attorney's decision of 13 December in the Ryan case were:

- The issues involved were complex (Belgian dimension, conspiracy law and extraterritorial jurisdiction) and necessarily took time to consider.

- Every citizen has a constitutional right to a fair trial. The prejudicial statements in the House of Commons, which were widely reported, and the assertions of guilt in the British media, have created such prejudice and hostility to Ryan that a British jury could not approach the issue of guilt or innocence free from bias.

- The charges are most serious and should be considered by a court. The Criminal Law (Jurisdiction) Act 1976 provides a means. The AG has requested the British AG to examine the evidence available with this option in view. (The Prime Minister has already said in the Commons that two charges could be brought under the Detention Act).

THE TANAISTE MIGHT SAY THAT IT IS NOW UP TO UP THE TWO ATTORNEYS TO SEE WHAT CHARGES CAN BE BROUGHT UNDER THE CLJA. CONVICTION ON EVEN ONE OF THE CHARGES WOULD CARRY A HEAVY SENTENCE.

Evidential Provisions

Comments: Our legislation permits the Court to admit documents without further evidence unless the Court sees good reason to the contrary. In the British view, this gives the Court an

Confidential

Steering Note

British Paper on Extradition

Comment: Our Courts require that the point of departure for Mr King wrote to the Tanaiste on 2 December attaching an official paper for changes in the operation of the extradition arrangements. The paper is a summary of points already made in the Working Group discussing extradition. Some of the points have arisen in discussion between the Attorneys. The following are the points raised. All of them would involve legislation but could be considered in the forthcoming review of Part 111 of the 1965 Act.

Hearing Cases initially in the High Court or the Dublin District Court

Comment: There can be difficulties with the situation where the initial hearing must be in the local District Court. The High Court would involve a major change bearing in mind that the British warrants are authorised at low judicial level. Centralising hearings in Dublin District Court could be looked at but there may be problems in agreeing.

Detention Pending Appeal

Comment: This would be very difficult for us given court decisions.

Evidential Provisions

Comment: Our legislation permits the Court to admit documents without further evidence "unless the Court sees good reason to the contrary". In the British view, this gives the Court an

opportunity to require evidence which may not be strictly relevant. We can consider this, but there is no clear reason to see a difficulty.

Specified point of Departure

Comment: Our Courts require that the point of departure for extraditees should be specified in the Court Order. This can cause security and other problems. We can consider this.

Extension of Provisional Arrest Warrant Period

This is valid for three days. We recognise that the period is short and can give rise to difficulties. An 18 day period is permitted to other countries in Part 11 of the 1965 Act. We can consider this.