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488/97



FROM: JOHN FISHER
ANGLO-IRISH SECRETARIAT
27 OCTOBER 1997

cc PS/Secretary of State (B&L)
PS/Mr Ingram (B&L)
PS/Mr Murphy (B&L)
PS/PUS (B&L)
PS/Mr Semple
Mr Thomas
Mr Steele
Mr Bell
Mr Daniell
Mr Leach
Mr Shannon
Mr Stephens
Mr Watkins
Mr Woods (B&L)
Mr Beeton
Mr Brooker
Mrs Brown
Mrs Collins
Mr D Ferguson
Mr Hill
Mr Maccabe
Mr Perry
Mr White
Ms Bharucha
Mr McIlroy
Mrs Mapstone
Mrs Todd
Mr Warner
HMA, Dublin
Mr Fergusson, RID

Mrs McAuley
Mr [unclear]
LD 28710

NOTE FOR THE RECORD

CONFIDENCE ISSUES: STOCKTAKE MEETING BETWEEN BRITISH AND IRISH OFFICIALS

British and Irish officials met at Stormont House on 22 October to exchange views on Confidence Issues. The British side was represented by Mr Steele, Mr Bell, Mr Leach, Mrs Collins, Mr White, Mr Lee, Mr Fisher and Ms McGimpsey. The Irish side representatives

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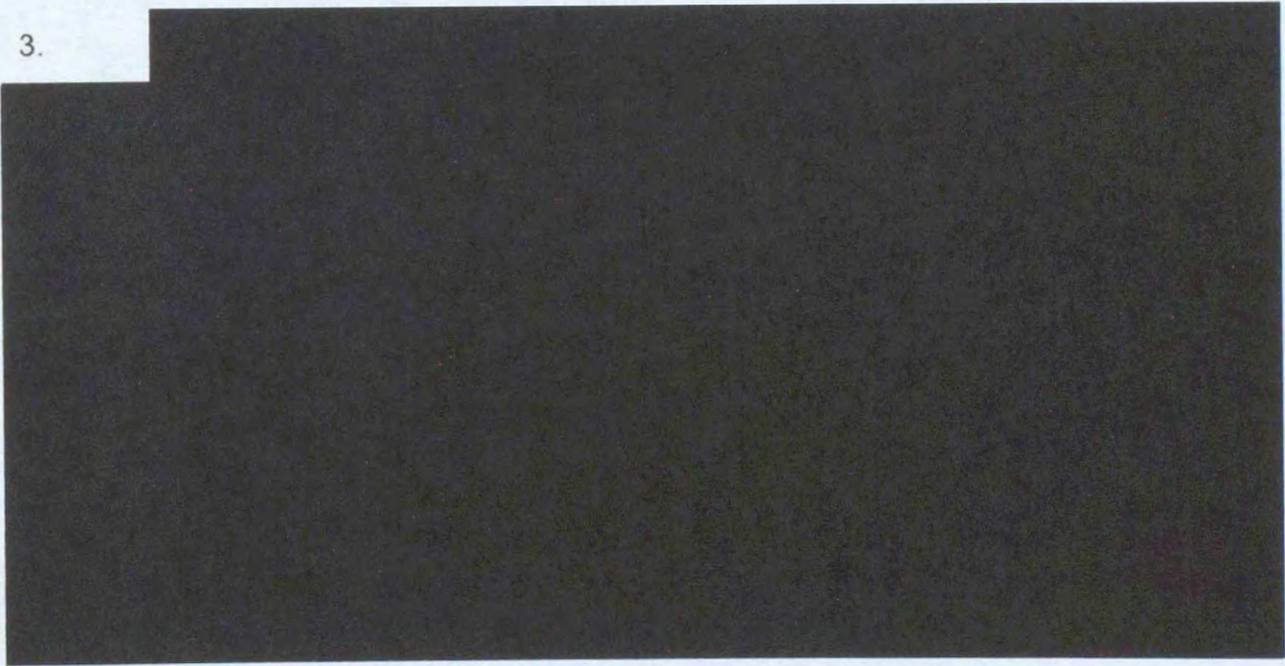
were Mr Donoghue, Mr Dowling, Mr O'Flain, Mr McKee, Mr Bigger and Mr Hackett (all DFA) and Mr Magner and Mr Folan (both Department of Justice.)

SUMMARY

2. With minor exceptions (which can be attributed to one member of the Irish team), a reasoned discussion of the main areas of concern to the Irish with few surprises. Irish satisfaction in several areas but growing Irish irritation over lack of progress on 'Bloody Sunday'.

DETAIL

3.



4. On discussion of the substantive topic of **the Responses of the Security Forces to the ceasefires**, Mr Steele provided the Irish side with an overview (level of Army

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patrolling substantially reduced save in border and other rural areas where CAC, INLA and LVF posed a threat; low flying defensive and helicopter flying time significantly less). Had there not been the Markethill bombing it might have been possible for some troops to have returned to GB. Soldiers were still being trained for normal tours of duty in NI but it might be that whilst battalions came under the command of the GOC they would not in fact in future need to take up duty in the Province.

5. The Irish side were interested in the possible closure of Mourne Abbey Barracks (under consideration as part of Army rationalisation but no final decision taken.); removing border observation posts (point made that Rosemount Tower had been removed in response to the previous ceasefire and not reinstated and no present plans to close others.); the removal of 'road furniture' at Cloghogue (not being used operationally and a visible reminder of the presence of the Army but no undertaking possible on when the installation might be removed), and the level of Army patrolling in the Lurgan and South Armagh areas and local friction between RIR and residents of the Kilwilkie estate (Irish side reminded of the RSF/CAC threat and the consequential need for significant patrolling). In discussion, salient points put to the Irish side were that confidence building was a two-way process and there was a need to review the situation as it developed. If political progress were achieved and PIRA were demonstrably serious in their avowed political intentions, then changes (such as closure of observation posts) would occur. But, at present, it could be argued that the towers helped keep soldiers off the ground and their presence less obvious. It was agreed that the British side would follow up with whatever statistics were readily available on the level of patrolling and what was known about regular road closures in the Bessbrook area.

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6. Reviewing the level of **terrorist threat**, Mr Steele noted the recent increase in Loyalist punishment attacks. The PIRA ceasefire was holding 'remarkably well' although there had been some loosening of control since Sinn Fein had entered the Talks process. Opportunist targetting and punishment attacks had been growing. There were rumours of dissension fuelled by the media but the strength of organisational control within PIRA had been demonstrated. There was always the concern that the present serious phase of evolution it was hoped was taking place was at risk by those unwilling to compromise. The point was made that by pursuing a 'rhetoric of unity' Sinn Fein might be making it difficult for that compromise to be achieved. [REDACTED]

7. The Irish side expressed thanks for the material they had been supplied recently on **Parades** legislation. They recorded their satisfaction that sport (especially GAA) events had been excluded from the extended remit of the Parades Commission in the Bill now before Parliament. They remained worried, however, about other (eg musical festival) events which would come within the proposed remit. They felt that the Parades Commission faced an 'up hill struggle' to gain acceptability in the nationalist community.

8. Responding, both Mr Steele and Mr Leach sought to reassure the Irish side that the proposed extension of the Commission's remit should not be seen at all as threatening. The Commission would not be a complaints bureau and would have no powers of redress only to examine and report on the law on those matters within its new remit. Loyalists might

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find themselves just as much at risk of aspects of cultural identity being reviewed by the Commission (Orange arches in town centres mentioned) but it would be for the Commission to decide what they reported on. The Commission had a great deal of work before them in terms of enlisting public opinion; it was agreed that their approach would be critical. It was explained that the commitment to extend the remit of the Commission was one given at the height of the marching season without which events might have been different. The Secretary of State had not yet decided when the extension of the remit would be effected by Order. This would need to have regard to the need for the Commission not to be diverted from its principal task. It was hoped that the Commission would have the necessary powers of determination before mid April; this represented a challenging Parliamentary time-table for the legislation.

9. The Irish side drew attention to the restrained character of their public statements on the subject (both sides were glad that agreement on the remit had been possible) and hoped that the Commission's extended remit would only be addressed by it in a 'perfunctory way'. Chief amongst other comments made was that the Irish side saw anomalies in the legislation in relation to the way in which customary routes had been referred to in the primary legislation when demographic factors had not.

10. Looking to the future, the British side pointed to evidence that Sinn Fein's grip on residents associations had increased since the marching season, and their evident intentions. More broadly, the Irish side mentioned the economic impact which parades had on the NI economy (discussed at a recent dinner held at Maryfield with G7 members), and both sides welcomed the indications that weekly protests at Harryville Catholic church now

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seemed to be fading away and had not spread further afield. The British side saw signs of optimism in relation to parades in Londonderry, (for example the recent attempt to pagentise these).

11. Thanking the British side for the extensive briefing they had been provided with on the **Policing**, the Irish side were told that virtually all major points had now been decided (subject to Cabinet Committee approval) but that no Parliamentary slot had yet been found for the Bill. The time-table for the legislation was therefore still somewhat uncertain.

12. The Irish side confirmed their intention to put forward formal comments on the draft legislation by the end of the week. Concerns they identified affected the discretion of the proposed Complaints Ombudsman to decide whether and in what number police officers would be employed in the investigation of complaints. This was discussed. It was agreed that the wrong conclusion could be drawn from present wording in the legislation and improvements to it were being considered. As to who was employed, this would be a matter for the Ombudsman but the overall number of investigators (including police officers who could be selected from any forces within the UK) could be of the order of 30.

13. Notwithstanding that fundamental issues affecting policing were to be addressed in the Talks process, Mr Donoghue expressed regretted that opportunity had not been taken in the legislation to address cultural aspects of policing (title of the police force and duties of a police constables were identified as examples). Improvements to managerial accountability proposed in the legislation would not be seen as having relevance in the nationalist community and there was a need to reconcile nationalists to policing.

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Responding, both Mr Steele and Mrs Collins did not rule out that changes on the RUC declaration and the title of the police force could be added during the progress of the Bill. And, finally, and answering the Irish side, they were told that the person appointed to be Ombudsman would be some one of 'judicial standing' although that was capable of broad interpretation and even as no more than 'describing a set of skills'.

14. Three other issues were raised by the Irish side in relation to policing. In regard to the **Fundamental Review of Policing**, recommendations were already being actioned by the Chief Constable but others were dependent upon the present ceasefires and changes to be achieved by the Police Bill which would place the necessary resources under the control of the Chief Constable. Secondly, on **PBRs** arrangements were in place to avoid a further repetition of faulty rounds being issued. This involved their checking and recall. ACPO would shortly report to the Home Secretary and the Secretary of State on guidance on the use of PBRs; the intention was to develop coherent and consistent guidance for the Army and RUC with a view to these being in place next Spring. Finally, and in relation to the **Derryhirk Inn** incident, it was confirmed to the Irish side that although a named Lurgan CID officer had attended in an investigatory capacity the scene of the incident shortly after it occurred, he had not been an arresting officer and his presence at the scene was not inconsistent with his now being a member of the investigatory team.

15. When it came to **Prisoner Issues**, the Irish side were emphatic that the issue was one which was 'underpinning the ceasefire'. Its importance to Sinn Fein was raised virtually at all meetings with Irish officials and could not be understated. The Irish side welcomed the recent decision to release on compassionate parole [REDACTED] raised the case of [REDACTED]

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[REDACTED] and also enquired about the scope for the transfer of Loyalist prisoners from GB to NI. They pointed to the fact that no additional number of prisoners had been released in response to the present ceasefire comparable to those released on the previous occasion.

16. Responding, Mr White said that some 220 prisoners had been released under legislation introduced after the last ceasefire. Notwithstanding that the previous ceasefire had ended, prisoners had continued to benefit from increased rates of remission introduced at the time by legislation. And, in answer to Irish side interest in the Christmas leave scheme, Mr White went on to describe the changes which had been made (qualifying times reduced and length of leave extended) and who might apply. In the case of [REDACTED] she had automatically benefited when the rules had changed (it was not to be seen as a special case) and the security classification of [REDACTED] was under review. If reclassified as a 'high risk' category prisoner he would be eligible to apply for home leave and other privileges. As for the transfer of Loyalist prisoners to NI, the crimes of those involved and the lack of sympathy there was in Scotland for the transfer of prisoners was described; the Irish side did not press their views. Finally, and at their request, it was agreed that the Irish side would be provided with information about the likely date for the coroner's inquest on James McDonald. In relation to the **Life Sentence Review Board** meeting the previous week (and the cases of Fisher and Wright and the Casement 2) these and other cases were now with the Secretary of State. It was normal to announce decisions on cases

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considered by the LSRB some 7 or 10 days following a meeting but the 4 cases identified by the Irish side might take longer. No indication could be given of the decision which would be taken in their cases.

17. On the **Review of Emergency Legislation** the Irish side asked for more information on the changes which were proposed. They understood that the powers of internment were to be ended. They had earlier been led to believe that audio recording of interviews of persons in police custody was to be introduced as well as changes made to the 'certifying out' procedures for scheduled offences.

18. The Irish side were told that the present legislation would expire next August. The intention was to introduce new legislation in time for it to complete its Parliamentary programme substantially before then. The legislation would provide for a greater power to 'certify out' offences. It was agreed that the Irish side would be provided with a briefing nearer the time of introduction of the Bill. This would cover a variety of points raised, including whether the life of the legislation might be shortened to one year, whether reviews would continue to be made of emergency legislation such as that now undertaken by Mr Rowe and Exclusion Orders.

19. The Irish side also raised the issue of '**Bloody Sunday**' and when they might be told the outcome of the Secretary of State's consideration of the Irish dossier of evidence presented to the Government.

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The Irish Government were coming under severe pressure from relatives of those who had been involved. Note was taken of their views and their request for an early briefing on the subject.

Signed:

J R FISHER
Maryfield (01232) 427532

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