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Reference Code:	2005/7/629
Title:	Report of a meeting between Minister for Foreign Affairs Garret FitzGerald and Secretary of State for Northern Ireland Merlyn Rees, held to discuss the Law Enforcement Commission Report.
Creation Date(s):	25 April, 1974
Level of description:	Item
Extent and medium:	5 pages
Creator(s):	Department of the Taoiseach
Access Conditions:	Open
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Report of Meeting on 25th April 1974 between the
Minister for Foreign Affairs and the Secretary of
State for Northern Ireland

The Secretary of State had with him Mr. Frank Cooper, Permanent Secretary, Mr. Philip Woodfield, Deputy Secretary, Mr. Denis Trevelyan, Under Secretary, Mr. Reid, Principal Private Secretary and Mr. G. Watson.

The Minister was accompanied by the Ambassador.

At the outset the Secretary of State drew the attention of the Minister to a statement issued by the British Cabinet clarifying remarks by the Secretary of Defence, Mr. Roy Mason. The Minister noted this statement.

The Secretary of State then said that there are problems associated with the Law Enforcement Commission Report which both London and Dublin will have to watch very carefully. The timing of publication of the Report must be such as to give rise to the least trouble in Belfast. It will be necessary to ensure that Mr. Bradford does not rush out and condemn the Report. The Unionist members of the Executive could create difficulties if they are not properly handled as they are sold on extradition.

The British Attorney General is very interested in the Report and would greatly welcome the opportunity of discussing it with the Irish Attorney General when the latter is next in London. It is possible that the Irish Attorney General may be passing through London early next week on his way to Norway. If arrangements for a meeting between the two of them could be made for the beginning of the week this would be very helpful.

The Minister said that a timetable for future developments was envisaged at the Downing Street meeting. It was agreed then that there would be an early conference on security and that this could be the occasion for an agreed comment on the Report of the Law Enforcement Commission. The Minister went on to say that things do not appear to be moving as fast as was contemplated at Downing Street. The avoidance of leakage is, of course, all important and early publication of the Report might therefore be desirable, as holding it over to help create a favourable climate for ratification could now involve a delay of such length as to risk damage to its acceptability through leakages.

The Secretary of State said that it would be necessary for him to discuss the Report with his colleagues in the Cabinet and to get their reaction to it. The Executive will also have to be consulted and it is important to bear in mind

that the Executive cannot be ignored in this matter. Mr. Cooper intervened to say that it would be a mistake to bounce the Executive. The surest way of getting their backs up would be to shove the Report under their noses for hurried consideration. The Secretary of State said that the Executive will have to be coaxed along and, while there is merit in Dublin and London agreeing their comment before publication, this cannot happen until the views of the Executive are known. The Secretary of State went on to say that, while Mr. Bradford's position is still somewhat uncertain, there are indications now that he is backpedalling on his already declared reaction to the Report.

The Minister said that a Bill has already been prepared in draft form in Dublin to give effect to the agreed recommendation of the Commission. This Bill could be introduced in the Dáil if necessary on Tuesday next. It is more urgent to get the Irish legislation through than the British legislation and it would not greatly worry Dublin if there were some delay in introducing legislation here in London so long as agreement had been reached between the two Governments on the form of the legislation.

Mr. Trevelyan intervened to say that it is not clear that there was unanimous agreement in the Commission in favour of the extra-territorial solution. There were, in fact, the strongest objections both in Britain and in Northern Ireland to this solution and an equally strong feeling that extradition was the only reasonable way out. The Minister intervened to say that at the Downing Street meeting there was agreement on a course of action based on the extra-territorial solution. At this point Mr. Watson intervened to say that, while Mr. Justice Walsh was quite specific on the extradition question, Mr. Justice Henchy was less specific. Here the Minister pointed out that in paragraph 75 of the Report the two Supreme Court Judges have given a firm opinion.

Mr. Woodfield said that there is no doubt that a large body of opinion favoured the extradition solution. He questioned the Minister's statement that there was agreement in Downing Street to proceed on the basis of the extra-territorial solution as the report of the Commission had not been completed at that stage. The Minister said that both sides knew what was in the report at the time of the meeting with the Prime Minister. The extra-territorial solution was the only one on which there could be agreement and the view expressed in paragraph 75 of the report must form the basis for selling that solution. There is so much uncertainty surrounding extradition as a possible solution that it is only reasonable that the two Governments, wanting, as they do effective action, should

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seek to act on what is feasible.

The Secretary of State intervened to say that the British Government had to be careful to protect their position. This was one of the reasons why he had suggested that the two Attorney Generals should have an early meeting. He assured the Minister that there was no question of the Westminster Government wanting to back-pedal on what they have to do.

At this point, Mr. Trevelyan returned again to the question of extradition. He said that the arguments against amending the extradition law are no greater than those which arise in relation to the extra-territorial solution. This, in fact, seemed to be the view of Mr. Justice Henchy. The Minister pointed out that Mr. Justice Henchy had confirmed the view of Mr. Justice Walsh that there is serious constitutional doubt about extradition and had made no similar comment on the extra territorial solution. The practical thing to do was to take the only line on which there is agreement.

At this point, the Secretary of State asked the Minister for his view on the timetable for further developments. The Minister said that, because of the danger of leakage, he was not inclined to hold back publication of the report. It was essential that publication should be accompanied with a firm presentation of its unanimous recommendation.

Mr. Cooper intervened to say that the arrangements under paragraph 119 (c) of the report were likely to be seriously assailed by laymen and lawyers. The Minister replied that on all of these matters the South can cooperate fully.

The Secretary of State then enquired whether the report of the Commission would have to be published as a parliamentary document in Britain. Mr. Cooper expressed the view that it could be published as a report to the Secretary of State without reference to Parliament but this might be regarded as a hole-in-the-corner way of dealing with it. The preferable thing to do would be to publish it as a Command paper to be presented to Parliament. Actual publication could take place quickly and need not take more than 48 hours.

The Secretary of State asked Mr. Cooper for his views on the discussion of the report with the Northern Ireland Executive. Mr. Cooper said that he thought it would be necessary for the Secretary of State to discuss the report first with his colleagues as he could not express Government views on it without having

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his colleagues' reaction in the first instance. He could, however, discuss the report with the Executive in advance of publication and he doubted if the risk of a leak would be great. The members of the Executive have, in fact, shown considerable discretion in relation to other confidential matters which have been discussed with them. The Secretary of State thought that it would be desirable to discuss the report with Dublin before going to the Executive on it. That was one of the reasons why he had suggested an early exchange of views between the two Attorney Generals. The Secretary of State said that his hope was that when discussing the report with the Executive it would be possible at the same time to bring up the question of the Security Conference.

Mr. Cooper then intervened to give his views on future developments in relation to the report. It is, he said, a long and complex document. To give it the bum's rush would do damage not only in Britain and Ireland but indeed among international lawyers who were showing great interest in the Commission's work. If the matter were to be rushed, it might look like a cooked-up thing. He then suggested that a neutral statement should issue from the meeting. (The text was, in fact, subsequently agreed.) The next step will be the meeting of the two Attorney Generals (subsequently tentatively fixed for Monday of next week). This might be followed by a two-day visit to Dublin on Wednesday and Thursday of next week by officials to try to come to a view on the Security Conference and on what should be said to the Executive. The Secretary of State would then talk to the Executive the week after next and the report could be published in about three weeks from now together with an announcement of the action to be taken on it.

The Minister said that the approach suggested by Mr. Cooper would, if adopted, mean a serious slippage in the timetable. He questioned the need for a meeting of officials next week as it seemed to him that the matters which required to be sorted out were entirely of a political nature. The Minister wondered whether the matters suggested for consideration by officials were not really more appropriate for a Cabinet committee.

The Secretary of State said that, in relation to the Security Conference, a considerable number of technical matters would need to be discussed and that the preparations for the Conference should be carefully made. The method of presentation of the Law Enforcement Commission Report will need to be carefully considered and it may, in fact, be necessary to set out arguments for and against a certain method of presentation.

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Mr. Trevelyan intervened to say that we are at a very early stage in our preparations for the Security Conference and there are, in fact, a great many technical questions which he himself would wish to raise in relation to it.

Mr. Watson said that, if the extra-territorial solution is to be the one adopted, a number of important questions in relation to its operation will require to be answered. It will, for example, be necessary to know how the South proposes to deal with witnesses from outside and what detailed security arrangements would be provided for them. Mr. Cooper said that the Law Commission Report is not a simple document for the layman. Consideration may have to be given to the preparation of 3 or 4 pages of an interpretative text of what the Report contains.

The Secretary of State said that, after the meeting of officials had reported back on technical problems, a separate meeting between him and the Minister for Justice on the Report may be necessary.

The Minister again returned to the risk of leakages and he referred to the Press Association story of yesterday. He wondered where this leak could have come from and Mr. Woodfield said that his information was that it had originated in Dublin.

The Minister stressed the need for getting Sunningdale ratified as quickly as possible and the Secretary of State assured the Minister that his own wish is that ratification should take place as soon as possible. There are, however, obvious problems in Belfast about Sunningdale, but agreement on the Law Commission Report and the results of the Security Conference should help the setting of a date for ratification. Mr. Cooper thought that ratification at the end of May is not out of the question but some slippage into June is not unlikely.

The Minister said that he has the impression that little or nothing is happening in the Executive in relation to ratification. This, in fact, was the impression conveyed by the SDLP when they were in Dublin at the beginning of this week. Mr. Cooper said that, while it is true that Sunningdale has not been discussed at formal meetings of the Executive, there have been a number of informal meetings on it. The Secretary of State said that what some members of the Executive are afraid of when they come to the crunch about Sunningdale is that the whole thing may collapse. The Executive do not want to break. It is becoming increasingly clear that they want to do their own thing and there is a lessening tendency on their part to rush to the Secretary of State with their problems.

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At the close of the meeting the Secretary of State again reiterated his view that agreement on the Law Commission Report and the holding of the Security Conference should be regarded as the major step towards ratification of Sunningdale. He hoped that the Report, with comments on it, could be published on the 16th May. The date for the Security Conference could be announced at the same time. This hopefully would leave the way open for early ratification thereafter.

The meeting then agreed the text of a statement to be given to the press.