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Telex - 15 March 1988

To: H.Q.
For: A/Sec. Gallagher

From: Belfast
From: O Huiginn

Meeting with Secretary of State

1. I had a long meeting this afternoon with Mr. King. Mr. Oliver Miles, the British Joint Secretary, Mr. Tony Stephens of the NIO and a note-taker were also present.

McAnespie

2. Mr. King first discussed our request for access for Dr. Harbinson to material on the McAnespie shooting. He reiterated the major difficulties which the British side had had with the Crowley enquiry. This had come with scarcely any prior notification and with no prior consultation. Many voices had encouraged him to take a hard line on it but he had refrained from doing so. He enquired what the current state of the enquiry was and what it was intended to do with it. I said I understood that D/Comm. Crowley was now working on his report which was likely to be with the Government next week. The Government would then decide what to do with it. I referred, on the lines of the authorised statement already conveyed to the British side, to the likelihood of relevant parts being conveyed to the Northern authorities (provided that persons giving such information to the enquiry had no objection). Mr. King referred to the importance of not prejudicing the trial and to a suggestion which he said he had already conveyed to the Tanaiste that the findings could be handed over on the grounds that they related to procedures, harassment etc. at the checkpoint which the Irish Government would be raising in the Anglo-Irish Conference. (I understood Mr. King to be making a helpful presentational suggestion here but will check later at official level that I got his meaning correctly.) I drew a distinction between the Crowley report and the post-mortem report. The post-mortem report had been at the request of the family when it appeared the Northern report would not be available until after legal proceedings. I emphasised the enormous difficulties that would arise if there were different conclusions by the two Pathologists. There was a brief inconclusive discussion between Mr. King and his officials as to whether the Northern P.M. report had yet been communicated

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to the family: they thought not. Mr. King then reiterated his main remaining concerns arising from our request. (A) As a general point he wanted to stress his hope that if ever any situation again arose which might suggest a parallel report on the lines of the Crowley report that they should be consulted about it beforehand. (B) That nothing should prejudice the trial. He read from a legal opinion which emphasised the difficulty of "proving" exhibits in court and said that if it came to a choice between having two divergent post-mortems and having permitted an escape hatch for the soldiers defence by meeting our request he would choose the former as being the less embarrassing for him and, he thought, probably for us also. (C) There should be no public "credit" given to him for cooperating with the post-mortem or anything said in public which associated the British authorities with it, or with the Crowley report. On these conditions he was willing "to avoid putting any obstacles" in the way of the professional contacts the two Pathologists might have and hoped this would meet Dr. Harbinson's requirements. (He used several phrases to show that he was concerned to meet this objective without the appearance of active cooperation with the enquiry on his part).

3. I said I would convey the message about the difficulties which the Crowley enquiry caused them and his hope for prior consultation on any similar future occasion, pointing out however that the Taoiseach had stressed that the Crowley enquiry was not meant to reflect on any other enquiry. It must be everyone's hope that no such cause for enquiry arise again. On (B) I said that our legal advice had felt the condition would be met if it could be shown the exhibits were not tampered with. On (C) I felt that the Government for its part would have no difficulty in avoiding giving publicity to the matter but a separate consideration arose in relation to Dr. Harbinson's report. If any or all of these items were crucial to his findings he might very well consider as an independent professional that they had to be referred to. Moreover the fact that the rib-cage was in the Northern jurisdiction was known publicly and the question would immediately arise whether Dr. Harbinson had examined it. Mr. King thought that this could be met by some general references to normal professional contacts between the two Pathologists and instanced a phrase for the report on the lines that Dr. Harbinson's findings "were based on examination of the remains and such professional contacts as he deemed necessary". I again emphasised our desire to ensure that Dr. Harbinson had access to all items necessary for him to form a full professional judgement. These included photographs and the leather jacket etc. in police

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custody. Mr. King drew a sharp distinction between items in Dr. Carson's possession and those in police custody. He emphasised difficulties which might arise from the latter request and the interventions in police/legal processes it would require him to make. It remained his hope that consultation with Dr. Carson and the materials and information in Dr. Carson's possession would in fact meet Dr. Harbinson's requirements. I said that the meeting between the two Pathologists could only be a helpful step. The matter could be taken in two stages. If Dr. Harbinson absolutely required access to further material after his meeting we would come back to him. It would be helpful if everything could be done to ensure that Dr. Carson had as much relevant material as possible in his bottom drawer at the time of the meeting (e.g., the forensic report which might well contain many photographs). Mr. King, while not absolutely ruling out access to the police material, cautioned severely against any reliance on our part that it could be made available, given the various political and legal difficulties this posed for him.

4. My summary is that Mr. King is genuinely anxious to be helpful but also very reluctant to engage in 'hands-on' cooperation with an enquiry which, inspite of the Taoiseach's assurances, has raised hackles among Tories and Unionists. If we can assure him in appropriate and explicit terms (a) that his concern about future consultation on any such parallel enquiry has been noted and (b) that the access will not be the subject of any publicity and given only indirect reference in Dr. Harbinson's report he will clear the way for a formal meeting between the two Pathologists. It will presumably be necessary to consult Dr. Harbinson before giving a reaction on this. The question of access to the exhibits in police custody is more difficult and can perhaps be left over until after the meeting when Dr. Harbinson can say whether or not they continue to be of critical importance to him.

5. Mr. King then went on to speak about the general difficulties of Anglo-Irish relations which he was anxious to do his utmost to clear up. His key concern here, on which he spoke at great length, related to meetings between the Garda Commissioner and the Chief Constable. He referred to the different positions adopted on this after the last Conference, making it clear that he had understood (in particular from tete-a-tete discussions) that a Conference meeting involving police chiefs would be organised. After the Conference meeting he had instructed Sir J. Hermon to telephone Commissioner

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Doherty and then had to ask him to desist. The issue of police chiefs contacts had been raised subsequently by Ambassador Fenn with the Tanaiste and with the Taoiseach. I made it clear that the latter meeting was the most recent and most authoritative possible statement of the Irish position and that I could of course add nothing to it although I would convey as fully as possible any points made to me. Ambassador Fenn had given his side to understand that the Taoiseach was pondering the points made to him but Mr. King felt the issue was very urgent. If it was not resolved at an early date it would inevitably become known that this situation existed between the two police chiefs. This would lead to very acrimonious discussions. It would come in the wake of the Gibraltar funerals where the television screens had conveyed an unfortunate impression in Britain of public sympathy for the IRA in the South. It would be seen as calling into question the Government's commitment to the security cooperation pledged in the Agreement. This would be all the more unfortunate in that there must now be serious concern at the renewed threat of Loyalist violence. He made a number of further points, with some emphasis and emotion, on the importance of effective security cooperation for both parts of Ireland in present circumstances.

6. I asked whether he felt that practical security cooperation had suffered. The Taoiseach had made clear publicly that there was no intention that it should be diminished in any way. There had been times before when a Garda Commission had found difficulties with such meetings, so the situation was not unprecedented. The Stalker/Sampson affair had recently cast a very dark shadow, and even the disciplinary proceedings, a very poor substitute for legal action, had not yet begun. When they had it would remove some of the uncertainty which clouded the existing situation.

7. Mr. King and his officials disagreed strongly that one could make a distinction between the practical level and the symbolic. The police chiefs stood at the head of their respective forces and these forces would take their cue from the relations between them. Practical cooperation would inevitably suffer if their relations were bad or non-existent. To hint that 'when disciplinary proceedings are inaugurated things might be different' was to engage in making security issues a bargaining counter in a way we had pledged not to do. There had been a sequence of such conditions, starting with the extradition issue (Mr. King in a parenthesis spoke of the efforts which they had now made on extradition and the long delay in meeting a response to the

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trial document sent after the last meeting of officials in London. I said this was a matter for the Attorney General, who was considering the issue. I promised to check out the position). He went on to say that inspite of their best efforts the inauguration of disciplinary proceedings by Chief Constable Kelly would be somewhat delayed, due apparently to the need to check out assertions that suspects were obeying orders from superiors. As regards the senior ranks the police authority would be acting on observations made in the Stalker/Sampson report but these got more tenuous as one went up the senior ranks and I understood from him there was no question of the Chief Constable being affected. It was essential that relations between the police chiefs be re-established and he could not accept that the Chief Constable should be ostracised.

I said that in referring to disciplinary proceedings I was not suggesting preconditions. Only the Government could or would define what the position should be at any given time. I had simply been making the obvious point that the Stalker/Sampson issue had caused great difficulties for us and that if a Minister was challenged in the Dail about high profile meetings they could not fall back even on disciplinary proceedings as a pointer to the likelihood of wrongdoers having been neutralised or sidelined from the RUC. It was necessary to remember how recent the Stalker/Sampson problem was and how little had been done, publicly at any rate, to set matters to right, and to understand the political difficulties which the Irish Government faced on this and the subsequent issues which had aggravated matters.

8. Mr. King then reiterated the vital importance of effective security cooperation and the difficulties which would arise both in substance and in terms of British reactions if the present difficulties became public. He speculated on the possibility of the British side calling for a special meeting on security. I said that it was of course their right to do so under the Agreement and we would be required to meet that request. On the other hand involvement of police chiefs would be optional as far as each side was concerned. He indicated short of this measure his readiness to travel to Dublin to meet the Tanaiste and the Taoiseach if it helped to resolve matters. The issue was vital to him and he was prepared for anything to set it right. In the meantime he was conveying formally a request through the channels of the Agreement for a meeting between the two police chiefs and he

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asked that I should come back to him with a formal response as soon as possible. I undertook to convey his request and views on the issue.

(Ends part dealing with police chiefs)

The final point Mr. King touched on was the Gibraltar killings. He spoke of the widespread incomprehension in Britain about what appeared to be sympathy in Ireland for terrorists who were engaged in planning an outrage. Allegations of no-warning killings were based as far as he knew on the testimony of one witness. He illustrated ways in which the people killed could have detonated a bomb. It was difficult to second-guess the security forces dealing with such dangerous people. If they had allowed them detonate a bomb pleading that they had waited to be sure would be very hollow. He did not recall any outcry at the shooting of Martin Bryan or Dessie O'Hare. There would be an inquest, so due process would be observed. In reply to my query he said he could not be certain that the security forces would testify but thought it likely they would, while protecting their identity. He hoped nothing would be said on our side to exacerbate feelings.

I said there was general relief all over Ireland that the bomb had been forestalled. Concern related to the specific issue of whether minimum force was used or whether there was an execution without due process. Clearly there was concern even in Britain on this latter issue. It was unfortunate, whatever the circumstances, that the event had now lent itself to a Provo presentation that unarmed Irish people had been gunned down. This would have a very detrimental effect in the US in the St. Patrick's period. The essential matter now was to ensure there was no further harmful footage arising from the funerals. There had been assurances of restraint which senior clergymen had found credible and the risks involved in keeping a low profile by the RUC seemed to be very small. Mr. King gave me to understand that the point about the funerals had been taken on board.

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