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16 November 1994

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Mr. Sean O hUiginn
 Assistant Secretary
 Anglo-Irish Division
 Department of Foreign Affairs
 Dublin 2

*a PSS**F. Murray**M. Horgan**T. Dalton**Ann. Cook**Ellie A-I**cc'd
4/11*

Dear Assistant Secretary,

Conversation with Michael Legge

The Deputy Secretary at the NIO in charge of security, Michael Legge, was here for dinner last evening. It was an interesting conversation. I will write separately about exchanges with him and others this week on British responses to our efforts to improve the flow of information on complaints and incidents including especially those which might put pressure on the ceasefire.

Mr Hennessey's report of conversation with Legge on his recent visit to Dublin provided some helpful pointers for the conversation.

Political situation in Dublin

Legge said the political situation in Dublin was a serious worry to them. Their immediate concern was that if the Government fell, it might be a considerable time before a new Government was formed and read itself in. If there was an election, it would be the New Year at least before a new, authoritative Government was able to take over the peace process. They were conscious that in 1992 the process of actually forming a Government after an election took a lot longer than usual.

They were concerned too about the impact on Sinn Fein and whether a successor Government would develop the same level of trust. Notwithstanding their criticism of the speed of the Government's actions vis a vis Sinn Fein, and of some of the actions themselves, the British greatly valued the Government's and especially the Taoiseach's role. I pointed

to some reassuring factors: the all-party consensus in support of the Joint Declaration, the overwhelming public enthusiasm for the peace process and anxiety that it should be kept on the rails, the likelihood that the Tanaiste would participate in any successor Government, the continuing value of the Forum in accustoming Sinn Fein to mainstream democratic politics and politicians, and perhaps the opportunity given to opposition politicians in the Forum to take the measure of Adams and company at close quarters.

I took the opportunity to say, however, that an even greater responsibility now lay with the British to be more accommodating in their reactions to the ceasefire.

Newry Incident

Legge said their second worry at present was the implications of the armed robbery at Newry post office and the murder of Frank Kerr. As I have already passed on to you, Legge said "good forensics" were coming in on the weapons used and the two men in custody would be charged with murder today as their seven-day detention period drew to an end. He doubted however if the police had or would have enough evidence to arrest and charge others. He repeated the British belief that the operation must have involved considerably more than three men. He repeated also that it was their belief that the operation was not maverick but was authorised within South Armagh IRA.

Future of Policing

Legge said that of the four main areas which he was addressing, arms, prisons, demilitarisation and future policing, he felt he now had a sense of the way forward on the first three (see below) but not on the last.

There was, first of all, the basic problem of how a force of some 12,500, including the full-time reserve, could be reduced to the 4,000 or so which was considered appropriate to ordinary policing in Northern Ireland, while at the same time recruiting Catholics and maintaining effectiveness and morale. We discussed some obvious measures, such as natural wastage, redundancies, financial handshakes, transfers to other forces, and the introduction of a significant number of people of Nationalist background in the upper echelons of the police force, but at the end of the day would such a combination of measures solve the problem? I thought much would depend on the determination of the British and their willingness to provide financial and other incentives to people to leave. They themselves had an incentive because of the huge cost of the present RUC which at last count was heading for 700m pounds annually, nearly twice the cost of the Garda.

Legge said there would be great difficulty with the police, and at political level, in regard to any breakup on regional or functional lines. I said I could see the practical

difficulties but, as the recent conference in West Belfast had shown, there was a serious question as to whether any police force based on the RUC would be acceptable in certain Nationalist areas of Northern Ireland. Perhaps special measures needed to be considered for those areas.

One point made by Legge was whether use might be made of the the RUC full-time reserve whose membership can be disposed of relatively quickly because they operate on a three-year contract.

Legge was less optimistic than we were, following our recent discussions with the Chief Constable and his colleagues at Knock, that the senior echelons of the RUC would be open to changes of structure as well as name, style and so on, provided the main organisation was kept intact. He was uncertain of their private views but thought there was a knee-jerk attitude at political level that a gallant police force should not be subjected to such indignity etc (Quentin Thomas mentioned to me recently that Sir John Wheeler had strong views on this subject.)

British proposals on the Police Authority

Legge said the British will follow up their consultative document on the Police Authority with discussion papers early next year. He was not very specific but there does seem to be some rethinking going on. The new Chairman, David Cook, is seen as someone who might play an important role in policing in a new dispensation. Unfortunately, the British have found him too inclined to play the politician and Legge said he had called him to try to get him to retreat from what is in danger of becoming open warfare with the Chief Constable (on employment policies in the RUC and the future of policing).

Comment: The NIO sees a single police authority retaining the role of public accountability for a single police force, even if a new power-sharing administration is formed. I thought this view should be re-examined on both sides, in light of the new situation; it would follow that we should also examine the possibility of a role for the North/South Body.

They tend to stress the role of Police Authorities in Britain, which is the least impressive of arguments and another example of the increasing tendency to quote UK-wide interests and precedents. I pointed out to Martin Williams in a separate conversation this week that Britain had a strong tradition, unlike Ireland, of local police forces; at the turn of the century, they existed virtually in every borough; even now, there were dozens of them. Naturally, a decentralised police service might be associated with decentralised political authority. The inconsistency of the British view had been exposed by Seamus Mallon who, quoting the British experience, was arguing for four separate police services which could have separate police authorities. The only answer that Williams could muster was that Northern Ireland was too small for more

than one police service or more than one authority, which is patently not so with reference to some of the British services and would be dubious even if the RUC were reduced in the near future to a third of its present size.

Decommissioning of arms

Legge said they were encountering problems on their side with the lawyers on any question of an amnesty for the handing over of arms. It was even being put to them that the couple of minor amnesties which have been arranged in Britain in the last twenty years or so were not operated on a sound legal basis. Legge seemed optimistic, however, that these objections could be overcome. He seemed fairly optimistic too about the forensics issue; the police would naturally be interested to check weapons for evidence of use in past crimes but so long as the handover arrangements were anonymous that should not be a major problem. Legge did say, however, that our own position would be vitally important in all of this because the republicans would undoubtedly wish to hand the arms over to us; he understood from discussions in the Dalton/Chilcot group that the legal issues were much less of a problem on our side. (Comment: That is too simple an approach and Legge probably did not intend to rely quite so much on ourselves. If loyalists were slow to hand over their arms because of British legal scruples, it would of course have an effect on republican attitudes to handover in the South.)

Prison releases

Prison
This issue has been worrying in recent times as the gap between us and the British has widened publicly, with their Ministers adopting the line "you do it your way, we'll do it our way". Greater effort on both our parts is desirable to reduce that gap, if only because public controversy tends to raise emotions in Britain and reduce the political room for this Conservative Government to act sensibly on prison releases.

Legge was more optimistic on this issue than I have previously found him. At least part of the reason is what he described as recent signs of pragmatism on the part of the Secretary of State. Legge now feels that progress can be made on lifers through the LSRB review mechanism but there remains a problem with determinate-sentence prisoners, especially those with less than five years sentence. His point was that to review such sentences would require some categorisation of the sentences to be reviewed. The obvious one was whether or not the person had been convicted of a scheduled offence in the Diplock courts, but this would include ordinary criminals and it might exclude some paramilitaries convicted in the ordinary way. The main impression I had, however, is that progress is being made here notwithstanding Mayhew's lawyer's difficulty with the notion that sentences passed by judges should be changed by the executive.

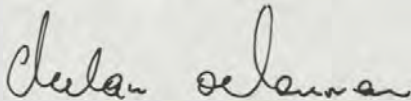
Demilitarisation

Legge argued that the responses that had been made to Sinn Fein, taken in total, were considerable. Exclusion orders had been lifted, the broadcasting ban had been lifted, talks had been promised by Christmas and there had been a series of responses on the ground. I pressed for more. Legge was doubtful if it would be possible to go much further with political blessing without progress being made at the same time on the arms issue. He said he did not see the two matters being used in a bargaining situation but as being ratcheted up together in parallel (difference?). It was important, therefore, that progress should be made fairly soon on the arms issue.

British research activity

Lastly, Legge commented on the enormous strain on the NIO and in certain areas of the Northern Ireland Civil Service as the system tries to meet demands for research work, and to draw up options, not least in response to ourselves. Martin Williams made a similar comment separately, telling me we might be surprised (worried?!) if we saw the effect our arguments were having on his side, notwithstanding surface impressions.

Yours sincerely,



Declan O'Donovan
Joint Secretary

copy: Secretary, Department of Justice