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AN RÚNAÍOCHT ANGLA-ÉIREANNACH
BÉAL FEIRSTE

ANGLO-IRISH SECRETARIAT
BELFAST

Confidential

22 January 1997

Mr Colm O Floinn
Anglo-Irish Division
Department of Foreign Affairs

Dear Colm,

North Review of parades and marches

As you will have seen from Mr Magner's letter (of 21 January) covering aspects of our meeting with John Steele yesterday afternoon, Steele refused to be drawn on what the North report (which, as advised, is scheduled to be presented to the Secretary of State on Thursday next, 30 January) might contain.

In the same way the British side here have remained absolutely closed in relation to the report.

Relying on other sources, the best information available to us at this stage is that the assessment within the British system is that the report (a draft of which will have been seen by some people) is substantial, authoritative, well-written and, while they would see it as having some inaccuracies or flaws, is not something the British Government will be able to walk away from or not take seriously.

It is believed that the North Review will recommend the creation of a Commission which will be independent and have powers to consider applications for parades and issue decisions in relation to them. Any contravention (by marchers) of the decision of the Commission, or any attempt to do so, would be a criminal offence.

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It is not, however, clear what the penalty would be in relation to refusing to abide by a decision of the Commission.

The report is also expected to recommend that applications for marches should in future be submitted with minimum notice of 21 days, rather than 7 at present.

As we understand it, the report (as it now stands) proposes that the police would, however, have the right not to enforce the judgment of the Commission in cases where, in the judgment and on the orders of a senior police officer, the circumstances at the last minute were such as to necessitate letting a march through (or, alternatively, stopping it), contrary to what the Commission had decided.

The assessment is that the British are not unhappy with the thrust of the report. (It may be that they judge that what is being recommended - a Commission - falls somewhat short of a 'Tribunal' with stronger quasi-judicial powers. They would presumably also see it as sensible for the final last-resort decision in regard to the implementation or otherwise of decisions by the Commission to rest with the police).

At the same time, as mentioned, they would see the report, as it now stands, as having some shortcomings (it can be taken that they will have communicated these to North in the hope that he will take their views in board to the extent possible in finalising the report).

In this regard, the report is not, apparently, clear as to precise kind of body the Commission would be (i.e. how it would be constituted or who would appoint people to it; terms of reference, composition/staffing; and whether it would be open to receiving representations in relation to individual applications). Neither does North address the issue of the guidelines/codes of practice the Commission might follow in arriving at decisions - these would assume particular relevance in cases of appeals against decisions of the Commission.

There would also be differences in regard to the North body's interpretation of the existing law (on parades). It is not clear what (independent) legal advice they took

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or from what source. There is also a question mark over whether decisions of the Commission could be appealed, and to who (the Courts, or the Secretary of State). Comment: it would seem difficult to imagine that march organisers/protestors could be prevented from referring any decisions to the Courts for judicial review.

As regards the RUC, the assessment would be that the police could live with the establishment of a Commission which, on the one hand, would relieve them of the poison chalice of having to take decisions on divisive parades, while at the same time leaving it to them to make the ultimate call on whether the circumstances were such as to enable them to put individual decisions of the Commission into effect.

Yours sincerely,

Kieran Dowling
Counsellor

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