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FROM: P N BELL, SPOB
5 DECEMBER 1989

Reg. P. A. Flynn
5/12/89

Mr Miles - B



cc Mr Stephens - B
Mr Burns
Mr Wilson - B
Mr Chesterton - B
Mr Blackwell - B
Mr Dodds - B
Mr McClelland
Mr Coston
Mr Shannon - B
Mr J McConnell - B
Prin Secretariat - B

BORDER CROSSINGS: USE OF EXPLOSIVES

Thank you for your helpful minute of 27 November to which one must now add Mr Chesterton's of 29 November and Mr Canavan's of 1 December. The particular issue to which that draft submission was targetted has (temporarily) disappeared, but the fundamental questions remain, and we need to be able to move quickly once a request for closing a BCP by means of explosive is put to us. We also have to take account of the discussions at last week's IGC, and we are therefore lucky to have gained this 'breathing space' to ensure that our approach is properly thought out beyond all reasonable doubt.

The Issues

2. On the operational side, I had thought my original draft went into sufficient detail. But Principal Secretariat may be reassured that no-one believes that the use of explosives will invariably affect a final closure of those BCPs where they may be used, although they are likely to make a much more permanent job at bridges than at purely land crossings. The fundamental argument in favour of explosives now at selected sites is that, faced with the kind of concerted campaign that has now arisen on the border, they may be the tactically appropriate response. In contrast to Braithwaite Tanks, it is far quicker to organise an explosion; involves less policemen and soldiers; and exposes those involved to less risk from the opposition. We were not faced with this kind of campaign 6-7 years ago or subsequently, therefore we have not needed to use explosives.

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3. Naturally, there is an operational downside: the physical damage that could be caused - though the strength of the case for using explosives in any given instance will be inversely proportional to that risk. Clearly, when there is any risk of damage to occupied property, on either side of the border, the inhabitants must be informed. How much notice can be given to locals is an operational judgement on which one hesitates to generalise: but one of the factors, as Principal Secretariat concedes, must be the need to avoid risk to the lives of those closing the crossing. Each case, details will have to be worked out and brokered, as necessary, with the Garda. Be assured, however, that we have not lost sight of these and similar points.

4. We are similarly sensitive to political issues. It may well be, as you say in your paragraph 2, that the use of explosives will cause 'real harm and distress to the locals'. It is equally arguable that so far from causing 'distress' etc, the Protestant population in South Fermanagh, for instance, will be reassured by the use of explosives, not least as an indication of firm and vigorous action on the part of the security forces without which they would be tempted, as recently at Lacky Bridge, to take the law into their own hands. Indeed my visit to 3 Brigade last Thursday has left me in no doubt that reassurance of the local population and demonstrating our determination to uphold the rule of law in what I nearly described as 'disputed lands', may be as important in the reclosure programme as facilitating counter-terrorist operations. Essential to note, however, is that the political arguments do not all point in a single direction.

5. Then there are the financial costs. Mr McClelland concedes that we cannot decline to pay compensation - from which, as you say, undesirables may also benefit. But the same is no doubt true of other compensation arrangements, and a major element in our scrutiny of requests for using explosives will be to ensure that they are only used in circumstances where damage, and therefore expenditure - to say nothing of inconvenience and adverse political reaction - is kept to a minimum. Precisely (or even roughly) how much it will cost is something I cannot say. However, we are expecting the Information Services to surrender c100K from the security

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advertising budget, and my inclination would, therefore, be to earmark that for this purpose for this FY at least. (I am minuting Mr Wilson separately about the financial implications of this policy for his RC in the coming financial year.)

6. Particularly imaginative, however, was your suggestion in paragraph 4 that those who believe they are entitled to compensation as a result of damage caused by (our) explosions, must first sue the appropriate Border Community Association. You refer, in this context, to the active - and named - participation of members of Sinn Fein in the current campaign. Even leaving aside questions as to whether the associations do have a legal personality that would enable them to be sued, or whether they or their organisers have any assets that are worth suing for, I am left wondering whether this stratagem, attractive though it seemed at first sight, could not rebound politically against us? If my front window in Co Monaghan was blown in by the actions of the British Army, I would be off to my TD quicker than you could say 'Anglo-Irish Agreement' if I was told that I had to sue Martin McGuinness before I could get my hands on the moolah! All our experience of house searches etc suggest that the best way of minimising conflict with the local population is for the man with the cheque book to turn up as rapidly as possible. Also, to be frank, even if my solicitor told me I did have a case against Mr McGuinness, I might think twice before suing him. I am told he has devoted and persuasive friends.

7. More generally, however, I entirely take your point that the security forces could be in danger of being tempted into taking a tougher posture on the border intentionally by Sinn Fein etc. We must always be on our guard against acting out a script they have written, or being lured into over-reaction. But inaction, sadly, is not an option here either, and I continue to believe that the arguments for the limited use of explosives on carefully selected occasions as set out in my draft continue to stand up on their intrinsic merits (and would therefore satisfy VFM criteria).

The Irish Dimension

8. Clearly our problems will be greatly lessened to the extent that the Irish are on our side. The conclusion of the private session of last week's IGC seem, therefore, to me - subject to

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Mr Stephens' correction - to be encouraging: the Ministers debriefing yesterday emphasised the tough line he had taken on the border in the private session, and that both sides had apparently come to a private agreement that some at least should be (re)closed in exchange for acknowledging those that cannot (or need not) be closed should become authorised. The Irish have taken the point that this is more than a game: lives are at stake. The Irish also accept that many of the reopenings are Sinn Fein inspired, although, not unreasonably, they draw attention to some genuine local concern; and they have also, again rightly, emphasised that there are economic, even political issues involved here as well as purely security ones. The way forward, as I now understand it, is for the issue to be discussed at an (expanded ?) Quadripartite meeting which could look at the issues in the round: security, political and economic. However, the Irish have been reminded that we may well need to act unilaterally before the Quadripartite assembles, and that we may have to use explosives. The decision taking in all this is for HMG after all. But, if we play our hand with sensitivity, a joint, if covert, approach with the Irish seems tolerably likely.

The Next Steps

9. I shall be discussing the issues in the round later today with Mr Stephens and Mr Wilson. We shall discuss them further at SCM later this week, when I shall take the opportunity not simply to try and ensure that the police and Army approach is properly co-ordinated (there are signs of a difference in view, recalling this summer's Lucky Bridge saga); but also to re-impress upon them the kind of issues you and colleagues have advanced. In the light of both these meetings, I hope we shall first be able to brief effectively for the forthcoming Quadripartite, which I hope you and yours will be able to organise before the Christmas season; and, second, be able to offer, whenever necessary, advice to Ministers.

(signed)

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