

296/95



Internal Memo

From: Miss M FT Finnegan
Local Government Division

Tel: 41009

Date: 31 December 1996

To: PS / Minister

- cc PS/Secretary
- Mr Watkins
- Mr Beeton
- Mr Canavar
- Mr Perry
- Mr Hill
- Mr McCabe
- Mr McMinnis
- Ms Murphy

Bridge for filing please 13

Mr [unclear]

This is a long running issue on which we are not directly concerned. JG

10/1

WAR MEMORIALS

1. Dr Ian R K Paisley has written to the Secretary of State requesting that a memorial for William Stephen Magill who was murdered by terrorists on 9 April 1980. be placed on the War Memorial at Carrickfergus. Similar requests have been made by individual MPs' and District Councils' in the past.

BACKGROUND

2. The Northern Ireland legislation relating to war memorials is very old. It is similar to existing provisions in Great Britain which dates from 1923 as amended in 1948. A local news report some time ago indicated that the Great Britain legislation had been amended but the Home Office has confirmed that this is not so.
3. The 2 relevant pieces of Northern Ireland legislation are:-
 - The Local Government Act (NI) 1923. Section 7, which provides that Councils may incur reasonable expenditure in the maintenance etc of any war memorial; and
 - the Public Health and Local Government (Miscellaneous Provisions) Act (NI) 1955 Section 8 and Schedule. which extended the power of Councils to incur expenditure in the alteration of any war memorial" so as to make it serve as a memorial in connection with any war subsequent to that in connection with which it was erected".
4. There is no definition of "war" in either the NI or GB legislation. Informal advice from DOE (L) to the Prime Minister's office in 1988 was that the addition of names to war memorials is a matter for decision by the authority concerned. It is our understanding that most local authorities in Great Britain treat the Falklands conflict

as a "war" even though neither side declared a state of hostility. The NI "troubles" have never been recognised as a "war".

5. A further piece of legislation which may be of significance is
 - the Public Health Acts Amendment Act 1890 - Section 42, which authorises Councils to erect a statue or monument within their district.
6. In responses to date, the line taken with regard to adding names to war memorials has been firm, in that Councils have no powers to do this under existing legislation. We have resisted requests to change the legislation and to consider doing so ahead of Great Britain would be unusual.
7. Last year, in response to a campaign, led by Mr Brian Bethell from Runcorn, Cheshire for a national monument in recognition of all those who lost their lives as a result of the "troubles" during the last 25 years, the Prime Minister asked the relevant Whitehall Departments to take this idea forward. Following 2 meetings involving officials towards the end of last year (1995), it was agreed that:
 - even though there had been some months of relative peace, the time was still not right to erect a national memorial;
 - if there were to be a memorial, it should be a symbol of reconciliation;
 - any memorial should be sited in Belfast; and
 - any memorial should not have names or even an inscription.

PS/Prime Minister was advised of these conclusions on 17 January 1996. With an end to the cease-fire and a return to violence at the beginning of February, there can be no question of moving on this policy issue for some time.
8. This Department, in responses to various Councils has drawn attention to the legislation outlined in paragraph 5 above and suggested that they seek legal opinion on the relevance of this legislation. There has not been any recent correspondence on this matter with Carrickfergus Borough Council. In addition to the sensitivity involved, this would have initial and ongoing cost implications for Councils.

RECOMMENDATION

9. It is recommended that the Minister replies to Dr Paisley along the same lines as previous correspondence cases on this subject i.e.
 - (a) continues to take the line that no names may be added to existing war memorials;
 - (b) points out that no changes will be made to existing legislation;

(c) suggests that Dr Paisley may wish to pursue the issue with Carrickfergus Borough Council in order to reach a solution which may be acceptable to Mr Magill's family.

10. A draft reply to Dr Paisley is attached.

M McBride

for M F T FINNEGAN (MISS)

Dr Ian R K Paisley
256 Ravenhill Road
BELFAST
BT6 8GJ

Your reference: IPJ 1701/96

Dear

Your letter of 4 December 1996 to the Secretary of State, with which you enclosed a request from the family of William Stephen Magill to have a memorial to him placed on the War Memorial at Carrickfergus, has been passed to me for attention. I have responsibility for the legislation in question.

The legislative position in Northern Ireland is that only the names of persons killed in a war may be added to existing war memorials. The civil disturbances here do not, however, constitute a war. The legislation in Great Britain covering war memorials dates from 1923 and is similar to that in Northern Ireland. There are no plans at present to change the legislation either in Great Britain or in Northern Ireland.

In the past, a number of District Councils have written to the Department about similar cases and have referred to an anomalous situation which appeared to exist in Great Britain, whereby local authorities have added the names of soldiers, killed in Northern Ireland to war memorials. Further investigation however revealed that this related to a case where a Council in England decided to honour a soldier who was killed while serving here. In that particular instance the soldier's name was not added to a war memorial, but was inscribed on a plaque erected alongside the existing war memorial. Against this background I have suggested to Councils here, with regard to the general issue of the erection of monuments and statues, that they may wish to obtain a legal opinion on the relevance of Section 42 of the Public Health Acts Amendment Act 1890 in allowing them to adopt a similar approach in Northern Ireland.

While there has been no recent correspondence with Carrickfergus Borough Council on this subject, you may wish to consider pursuing the issue with them in order to reach a solution which may be acceptable to Mr Magill's family.

Yours sincerely

MALCOLM MOSS

4th December 1996



HOUSE OF COMMONS
LONDON SW1A 0AA

Please reply to:
256 Ravenhill Road
Belfast BT6 8GJ

Ref: IPJ/1701/96

Rt Hon Sir Patrick Mayhew QC MP
Secretary of State
Northern Ireland Office
Stormont Castle
Stormont
Belfast

SOS/803/96

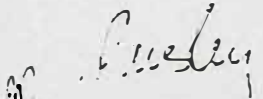
Dear Secretary of State

I have been contacted by the family of William Stephen Magill who was murdered on 9th April, 1980, by terrorists. Would it be possible to have a memorial for this man placed on the War Memorial at Carrickfergus.

His family are most keen that his service is recognised. I enclose some details for your perusal.

Best wishes.

Yours sincerely


Dr Ian RK Paisley MP MEP

Please quote our reference number on all correspondence

