

1. Sir R. Hooper  
2. Sir B. Trend



NOTE OF A MEETING AT THE HOME OFFICE  
ON FRIDAY, 8TH AUGUST, 1969

Present: Home Secretary	The Prime Minister of Northern Ireland (Major Chichester-Clark)
Minister of State	The Northern Ireland Minister of Home Affairs (Mr. Porter)
Sir Philip Allen	Mr. Harold Black (Secretary to the Northern Ireland Cabinet)
Mr. Cubbon	Mr. Bloomfield (Deputy Secretary to the Northern Ireland Cabinet)

THE BACKGROUND TO THE MEETING

Major Chichester-Clark said that the Home Secretary had doubted whether a meeting would be helpful at the present time, with the attendant publicity, and he had not been enthusiastic himself; but he would be doing less than his duty if he did not come to explain in detail the Northern Ireland Government's reaction to the points that the Home Secretary had put to him on the telephone on 6th August. He hoped that the Home Secretary did not feel that he was dealing with a difficult or contrary Government. The Home Secretary assured Major Chichester-Clark that he did not.

Major Chichester-Clark said that he suspected that a lot of the United Kingdom Government's political information about Northern Ireland came from vocal critics of the Northern Ireland Government who painted a picture which suited their case and ignored the substantial reforms launched in recent months. The Home Secretary told Major Chichester-Clark that he had other sources of information. He repeated that he considered that the legitimate grievances on civil rights were being met, provided that local authorities in practice followed the policies of the Government.

DECISION TO USE TROOPS.

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DECISION TO USE TROOPS

Major Chichester-Clark opened the discussion by speaking on the lines of his letter to the Home Secretary of 6th August. Northern Ireland was as entitled to the use of troops as any other part of the United Kingdom. The Northern Ireland Government saw the possibility of limited intervention by troops avoiding grave trouble. But the Minister of Home Affairs would be put in a most difficult position in dealing with rioting day by day if he had to consider both the law and order grounds for calling in troops and also the political consequences. This could lead to undesirable delay in calling in troops. But if troops were not called in, the alternative was to use the B Specials, who were unpopular in certain quarters. He could not visualise the B Specials being armed and used against large numbers of the population. If this were done, it would raise the possibility of Southern Ireland's intervention to protect what they regarded as their Kith and Kin in the North. It would be preferable to call in troops than to use the B Specials, but if this were delayed in a deteriorating situation because of the constitutional consequences, the Northern Ireland Government might have to mention the constitutional risks as a reason for not calling in the troops to get on with it.

Mr. Porter said that he had always understood that the position throughout the United Kingdom was that under common law the military had an obligation to assist the civil power where this was necessary. He felt that as a matter of principle he was entitled to an assurance that this common law obligation was not in some way qualified in its application in Northern Ireland, so that he knew what his resources were and could take a decision on calling in troops on law and order grounds only. In his view the situation to be envisaged fell short of the stage where martial law was imposed, but <sup>was one</sup> where from time to time the civil authority could not quickly restore order without the assistance of troops. Troops had been used in Belfast in 1935 for these purposes. In such circumstances troops could be used in other parts of the

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United Kingdom, and he felt entitled to ask for a decision to be taken on their use in Northern Ireland on the same grounds. If the grave disorder in a few streets in Belfast the previous weekend had made it necessary to call in troops, it would have been an extraordinary consequence for this to lead to the suspension of the Northern Ireland Constitution. The Home Secretary asked the Northern Ireland Ministers what they considered was the role of the troops in such circumstances. Major Chichester-Clark said that it would be a normal internal security role. The Home Secretary said that troops had no "normal internal security role". Mr. Porter said that they would help to disperse unlawful assemblies. Mr. Black said that in 1935 they patrolled streets and searched houses.

The Home Secretary said that the Northern Ireland Government seemed to contemplate the use of troops in a rather matter-of-fact way, with the troops being called in "from time to time" to deal with "day to day riots". He strongly warned them against thinking that troops might properly be called in except as a last resort in severely abnormal conditions. In practice troops had never been used in Great Britain in recent times. Nor was it right to call upon troops "to get on with it" as though the maintenance of law and order was one of their normal functions. It was not; where there was disorder in overseas dependent territories, e.g., Anguilla, the maintenance of law and order was the responsibility of strengthened police forces, and not of the troops, and there was special statutory provision in the Police (Overseas Service) Act. The deployment of British troops in Northern Ireland was dictated primarily by defence considerations and not in order that they might be available to help the civil power.

The Home Secretary acknowledged that there was a common law obligation on the military to help the civil power in any part of the United Kingdom, subject to the Commanding Officer's judgment of what was necessary. It was just

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conceivable that troops might be used on a solitary occasion (as was probably the case in 1935) to deal with an outburst of hooliganism which was unlikely to be repeated, but he himself believed that the circumstances in which troops were properly called in in Northern Ireland in present circumstances would be such that even if they restored the immediate situation, the underlying circumstances would lead to their continuing deployment. The use of troops would mean that the R.U.C. was unable to cope with the situation, and he had repeatedly urged the Northern Ireland Government to strengthen the R.U.C. as quickly as possible. (This point was developed later in the meeting - see below.)

Major Chichester-Clark assured the Home Secretary that the Northern Ireland Government had never contemplated that the decision to call in troops would be taken lightly. Mr. Porter said that it was certainly a last resort, and was recognised to be a very grave step.

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CONSTITUTIONAL CONSEQUENCES OF USING TROOPS

Major Chichester-Clark said that he wanted to emphasise that the suspension of the Northern Ireland Constitution would bring about the most serious reaction from a very wide section of moderate Protestant opinion. Any radical amendment of the Government of Ireland Act 1920, and in particular the suspension of the Northern Ireland Parliament, would be regarded as a step in the direction of a merger with the Irish Republic. The law at present declared that there would be no change in Northern Ireland's position as part of the United Kingdom without the consent of the Northern Ireland Parliament, and if that Parliament disappeared, one of the main safeguards against such a change would be thought to have been removed. Major Chichester-Clark said that he was not over-stating the position in saying that this would have dire results; the Protestant reaction would be massive and might be very violent indeed. At the very least there would be no co-operation with the troops; and he could foresee a situation in which the troops were subject to attack by the Protestant population of Northern Ireland.

Mr. Porter said that the people of Northern Ireland regarded the 1920 Act as the foundation of their constitutional position. They would regard suspension as almost a betrayal of what they had been led to believe was the position.

The Home Secretary said that such a view of the implications of suspending the constitution had never occurred to him, and it was just not realistic. He spoke for the whole of the United Kingdom Cabinet in saying that such an intention was never in their minds. But he agreed that Major Chichester-Clark's forecast of the effect of suspension was an important consideration, and he would report it to the Prime Minister.

Lord Stonham said that he too was impressed by what the Northern Ireland Ministers had said about this.

The Home Secretary said that Northern Ireland could not have it both ways. Major Chichester-Clark's letter had asserted that Northern Ireland was part of the United Kingdom and therefore entitled to call in British troops and at the same time that Northern Ireland was determined to have its own Government. But

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the British public would not tolerate the use of British troops without the British Government being in control of the situation and the policies which might affect the position of the troops. He spoke for the whole Cabinet in saying that although they had contingency plans (as they had for many unlikely situations), they had no desire to assume greater responsibility for Northern Ireland affairs. It might be that the internal situation would be no better after they had done so than before but the continuing use of troops would make political intervention inevitable. Mr. Porter said that he acknowledged that Westminster was Sovereign but if the Northern Ireland Government acted responsibly in deciding under the common law to call in troops, why should they be removed from power?

The Home Secretary said that the continuing use of troops would presuppose a situation in which the Northern Ireland Government was unable to deal with the situation through the ordinary forces of law and order. A Government which did not control law and order was not a Government in the normal sense of the term. This was bound to have political and constitutional consequences. The common law did not help at this point; it was concerned with the obligation on the military to help and not with the political consequences. Even if the local magistrates in England were to find themselves in a situation in which they called in troops, they would quickly find that the central government stepped in to control the situation. The same position would inevitably arise in Northern Ireland.

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The Northern Ireland Government was <sup>a</sup> Government with devolved powers only. Although it was responsible for law and order, it did not have its own armed services, and therefore the use of troops inevitably brought in the United Kingdom Government. The troops were the agents of Westminster, and Westminster would be involved. The Northern Ireland Ministers were right in saying that a Sword of Damocles hung over them. In a situation in which anarchy was developing and the military had to be moved in, the Northern Ireland Government might lose its independence. The Minister of Home Affairs who had the responsibility for law and order in Northern Ireland, was a politician, as the Prime Minister was, and they would inevitably have to have regard to the political consequences of calling in troops.

Major Chichester-Clark said that for Mr. Porter's peace of mind it would greatly help to have some clarification of the sort of circumstances in which the use of troops would have fundamental constitutional consequences. The Home Secretary said that there were many permutations of the detailed circumstances in which troops might come to be engaged, and he could not tie himself down to prescribe the consequences in advance. It was a question for political decision to be taken at the time; it was not a matter of law. If the Northern Ireland Government wanted to suggest some clarification, he would be ready to look at it, but the general position was that if troops were used in Northern Ireland on any continuing basis, the Northern Ireland Government could not remain in control of the situation.

Major Chichester-Clark said that he was also concerned about letting it be generally known that the use of troops would have grave constitutional consequences. It might encourage the extreme civil rights leaders to stir up the trouble further in the hope of securing the removal of the Northern Ireland Government. The Home Secretary said that this possibility might also have a sobering effect on the Protestant extremists.

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DETAILS OF THE CONSTITUTIONAL CONSEQUENCES

The Home Secretary asked Major Chichester-Clark what were the details of the arrangements mentioned on page 2 of his letter of 6th August which he thought would be "sufficient to satisfy United Kingdom Ministers that troops were not being affected by situations which they could not influence or control". Major Chichester-Clark said that he had no detailed plan of how this might be arranged. He had assumed that the Home Secretary would lay down how he wanted it done; the Northern Ireland Government would co-operate completely.

Mr. Porter said that he accepted that, jurisprudentially, law and order was one of the fundamental, all-pervading functions of Government, but he saw no difficulty about ~~living~~ <sup>living</sup> off the law and order functions of the Northern Ireland Government and leaving the others. It would only mean someone else sitting in his seat as Minister of Home Affairs.

Sir Philip Allen pointed out the practical difficulties of such a division of responsibilities. If the United Kingdom Government said that the Royal Ulster Constabulary should be substantially strengthened, the money would have to be found from the <sup>other</sup> services now administered by the Northern Ireland Government. And the United Kingdom Government, if responsible for law and order, could not divorce themselves from other policies of the Northern Ireland Government which had repercussions on law and order. It would be an odd Government which was left at Stormont.

The Home Secretary said that the Northern Ireland Ministers could have, if they wished, a detailed note about this. His own view was that a straight division of functions was very difficult to envisage. The loyalty of the Royal Ulster Constabulary would clearly have to be transferred to the United Kingdom Government (and he agreed with Major Chichester-Clark that this would itself cause difficulties which might lead to more troops having to be used). But the fundamental objection <sup>was</sup> that law and order sprang from the total policies of a Government and <sup>from</sup> people's

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reactions to those policies. If the United Kingdom Government were to take over law and order, they would inevitably have to take over the larger share of the total policies affecting Northern Ireland.

Mr. Black said that the United Kingdom Government already had the means of coercing the Northern Ireland Government, including financial pressures.

Major Chichester-Clark said that he accepted that the United Kingdom Government would want to control the purposes to which the troops were put and would want a say in the general situation, as a decision of the Northern Ireland Government might result in the troops becoming further involved. But because of the likely Protestant reaction, he hoped that a Northern Ireland Government of some sort could remain in being, even if the United Kingdom Government took direct responsibility for law and order and exercised greater influence and control over other aspects of government than at present.

The Home Secretary said that he saw the force of Major Chichester-Clark's argument about retaining the Northern Ireland Government and Parliament, and in the interests of all the people of Northern Ireland it was worth while considering whether alternative arrangements could be made. It appeared that Major Chichester-Clark was suggesting that the United Kingdom Government's ultimate sovereignty should be recognised but that the Northern Ireland Government should act as its agents over a wide field, including agriculture. (Major Chichester-Clark did not dissent from this way of putting it.)

It was agreed that Sir Philip Allen and Mr. Black should examine as quickly as possible whether it was practicable to devise a scheme whereby the Northern Ireland Government retained its functions outside the law and order field on an agency basis.

Major Chichester-Clark said he had earlier thought that he ought to ask the United Kingdom Government to put in writing their views on the constitutional consequences of using troops, but in view of the way the discussion had gone, he did not ask for this at this stage.

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PREVIOUS WARNINGS ABOUT THE CONSTITUTIONAL CONSEQUENCES

The Home Secretary took up a reference by Mr. Porter to hearing about the constitutional consequences only in the previous few days. He said that Captain O'Neill had certainly taken the view that if troops were used on a continuing basis, the Northern Ireland Government could not continue.

Major Chichester-Clark said that there had been a misunderstanding between the two Governments. He had not supposed that the constitutional repercussions mentioned by the Prime Minister at the meeting in May had meant the suspension of the Northern Ireland constitution. He had pressed Captain O'Neill to clear the air about the consequences of calling in troops and had got the impression that the repercussions would be legislation at Westminster on electoral law in Northern Ireland and financial sanctions.

The Home Secretary agreed that the consequences had not been spelt out to Major Chichester-Clark personally. But he and Home Office officials were in no doubt that Captain O'Neill knew them and had indeed almost volunteered that he realised what they were. It had been assumed that Captain O'Neill had told the Members of his Government, which at the time included Major Chichester-Clark and Mr. Porter.

It was agreed that this aspect of the matter need not be pursued further.

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FORTHCOMING MARCHES

Major Chichester-Clark said that on the previous evening he had seen the organisers of the Londonderry parade on 12th August. They were taking a responsible attitude and would that day meet the "opposition" to see what agreement could be reached on the detailed arrangements, including the route of the march. It was perhaps the period immediately after the march which was the most dangerous. Even if there were legal powers to close the pubs, it was doubtful whether this would help. Nor would it help to ban a march which was so popular and traditional. An extreme Protestant could readily organise a march in defiance of the ban, with greater risk of disorder. Another source of potential trouble was the parade of the "Hibernians" a few days later. This was a Roman Catholic/Nationalist parade which could hardly be stopped if the Protestants were not stopped on 12th August.

Lord Stonham said that the greater danger would come from the march to be organised by Mr. Paisley at Newry later in the week.

The Home Secretary said that it would be worth considering whether there were other demonstrations which might be extremely provocative and could be stopped. The Northern Ireland Government might well reach its decisions on the basis of whether they had the police strength to enforce a ban. His own declared policy after the Grosvenor Square demonstration was to consider each case on its merits.

Mr. Porter said that he had made it clear that he would consider each proposed march and judge it on the basis of whether it would lead to serious disorder.

Mr. Porter also mentioned in passing that the civil rights organisations were now 99% Roman Catholic.

CS GAS

The Home Secretary informed the Northern Ireland Ministers that in response to Major Chichester-Clark's letter of 4th August, the United Kingdom Government were ready to agree to the use of CS gas if the following additional condition was satisfied:-

"Rioting was taking place on a substantial scale, was causing injury to persons and extensive damage to property, and was prolonged; and if the use of CS on the minimum scale necessary would be the most efficient and humane way of dealing with the situation".

/Major Chichester-Clark

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Major Chichester-Clark suggested that the new condition might read ".... was causing injury to persons and/or extensive damage to property....". The Home Secretary agreed.

The Home Secretary said that he again warned the Northern Ireland Ministers of the political dangers of using CS gas in view of the popular feeling against it. The police in this country used gas only against highly dangerous criminals who could not be arrested by other means. He would undoubtedly be questioned in the House of Commons if CS gas were used in Northern Ireland for crowd control.

#### ROYAL ULSTER CONSTABULARY

##### Strength

At different points in the discussion the Home Secretary urged the Northern Ireland Ministers to strengthen the Royal Ulster Constabulary as quickly as possible. He said that every time he heard of a disorder in Northern Ireland he was told that the R.U.C. was sorely overstretched. He had said <sup>at earlier meetings</sup> that it was a matter of first priority to increase its strength and to include a higher proportion of Roman Catholics.

Mr. Porter said that in the long term the reconstruction of the R.U.C. depot would help, and in the short term additional class rooms were ready to cope with an increased number of recruits. The Inspector-General estimated that the present strength of 3,200 should be increased to 3,500 if it was to be sufficient for normal purposes and to combat sudden incidents. It was hoped to achieve this increase within three years, but this was the minimum period. The R.U.C. already enjoyed the same rates of pay and allowances as police forces in Great Britain, and he imagined that there would be objections to going beyond these. Since May they had been going as hard as they could to increase the strength, and there had been a higher proportion of Roman Catholic applicants.

The Home Secretary said that this was terribly slow and very disappointing when the alternative to a strengthened R.U.C. might be calling in troops, with all the consequences this entailed. He said that he very much hoped that the increase to 3,500 would be achieved within 12 months. He agreed that at this stage it was better not to fix the establishment at a higher figure, but that when 3,500 had been achieved, the Minister of Home Affairs might want to raise the establishment again. If the rates of pay and allowances were holding back recruits, he would be glad to see what could be done to help; an undermanning allowance might be justified. In view of Northern Ireland's special needs there might be a case for not keeping exactly in line with Great Britain.

/Use of police

Use of Police Officers from Great Britain

Sir Philip Allen said that the Home Office had examined the possibility of the R.U.C. using police officers from Great Britain, after it was known that the Northern Ireland Government had themselves started to consider this. Such a proposal would run into substantial legal difficulties, as there was no authority to spend money in Northern Ireland for these purposes, and this would create problems over pensions. There were also formidable practical difficulties. It would have to be decided under whose command the G.B. police officers were serving; they would have no local knowledge of the geography and population of Northern Ireland; they would not be there in sufficient numbers to apply the techniques used at the Grosvenor Square demonstration; and they would be working alongside R.U.C. officers with different traditions and different methods, e.g., the use of water cannon.

The Home Secretary said that he had never really thought that this idea was feasible.

Major Chichester-Clark said that he had himself been responsible for raising the suggestion, but he agreed that the use of G.B. police officers would not be satisfactory. The differences between the two legal systems might also cause problems.

Organisation and Training

Major Chichester-Clark said that the Northern Ireland Government were not entirely happy about the R.U.C. If they came to the view that it would be helpful to have an outside expert in to advise on such matters as organisation and training, he hoped that the Home Secretary would be able to help.

The Home Secretary and Sir Philip Allen said that help of this kind would be immediately forthcoming. It would probably be better for two senior police officers from this country to go to Northern Ireland for this purpose.

Major Chichester-Clark said that the idea at this stage was tentative, and confidential, as it was important for the morale of the R.U.C. that they should not believe that the outside advice had been imposed upon them.

The Home Secretary said that he entirely agreed with this approach; he would wait to hear further from Major Chichester-Clark.

/Press Statement

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PRESS STATEMENT

It was agreed that the press should be told in very general terms that the meeting consisted of a general discussion ranging over the whole field of Northern Ireland affairs; and that there should be no background briefing by either side.

*BCC*

B. C. CUBBON  
11.8.69.

Copies to: Mr. Hopper  
Mr. Fries  
Mr. Waddell  
Mr. Cairncross  
Mr. North  
Mr. McCaffrey