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FILE TITLE: SITUATION		SERIES IRELAND
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PART

89

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Series : IRELAND

File Title : Situation

Part : 89

Date	From	To	Subject	Class	Secret
					0
02/02/2001	Telegram/IN		TelNo26 Dublin: Ireland: Fine Gael leadership race	R	0
02/02/2001	Telegram/IN	Telegram/IN	Tel No 053 Northern Ireland : Visit to Paris by Messrs Trimble, Mallo	U	0
03/02/2001	FA/APS	NIO	(T) Telephone conversation with Gerry Adams	C	0
04/02/2001	Ch.Staff	PM	Talk to Taoiseach and Adams tomorrow	U	0
04/02/2001	NIO	Ch.Staff	Northern Ireland: Review of Police Legislation	C	0
05/02/2001	PM		To Helen Jackson MP - loss of peter Mandelson	U	0
05/02/2001	NIO	FA/APS	letter from the Reverend Dr Ian Paisley to the PM : Bloody Sunday I	U	0
05/02/2001	Ireland/HME	Ireland/HMA	Finucane, Hamill and Nelson - Possible Inquiries	C	0
05/02/2001	FA/APS	France/HMA	Trimble and Mallon in Paris	U	0
05/02/2001	PM	France/Pres	(H) Chirac Meeting with Trimble and Mallon	U	0
05/02/2001	FA/APS	NIO	(T) Telephone conversation with the Taoiseach	C	0
05/02/2001	LC	SS/NIO	Devolution guidance note on the role of the Secretary of State for NI	U	0
06/02/2001	NIO	NIO	Finucane, Hamill and Nelson - Possible inquiries	C	0
06/02/2001	FA/APS	Ch.Staff	Telephone conversation with Gerry Adams	C	0
06/02/2001	NIO	Ch.Staff	Northern Ireland: Plan B	U	0
07/02/2001	FA/APS	NIO	(M) Meeting with David Trimble	C	0
07/02/2001	Ch.Staff		Northern Ireland: Text	U	0
07/02/2001	CWO/Lords	LP	Proposed Bill on District Council Elections in Northern Ireland	U	0
08/02/2001	NIO	FA/APS	Meeting with UUP: Organised Crime	U	0
08/02/2001	NIO	NIO	Gerry Adams' comments on Police Accountability in North America	C	0
08/02/2001		Cab Off	Thales Air Defence Ltd - Work for Northern Ireland	C	0
08/02/2001	NIO	FA/APS	The SDLP and Policing	U	0
08/02/2001	FA/APS	PM	Trimble Handling	C	0
08/02/2001	FA/APS	NIO	(T) Telephone Conversation with the Taoiseach	C	0
08/02/2001	NIO	FA/APS	SDLP and Policing	U	0
09/02/2001	NIO	FA/APS	Death of Francisco Notarantonio	U	0
09/02/2001	NIO	NIO	Discussions with Sinn Fein: Internal Commentary on Three Outstan	R	0
09/02/2001	D/C	PM	Message from Jonathan re: Irish Talks	U	0
09/02/2001	Ch.Staff	PM	Sinn Fein	C	0
09/02/2001	FA/APS	PM	(T) Telephone conversation with Trimble	C	0
09/02/2001	Telegram/IN		Dublin 35: Ireland-New Leader of Fine Gael	R	0
09/02/2001	NIO	SS/NIO	Meeting with David Trimble	C	0
10/02/2001	NIO	SS/NIO	Trimble Meeting	C	0
10/02/2001	FA/APS	NIO	(T) - Taoiseach	C	0
10/02/2001	NIO	NIO	Meeting with David Trimble 9 February	C	0
11/02/2001	FA/APS	NIO	(T) - Gerry Adams	C	0
11/02/2001	HO	FA/PS	Compensation for Miscarriage of Justice: Nicholas Mullen	U	0
12/02/2001			Nelson, Hamill, Finucane	U	0
12/02/2001	First Min/NI Assembl		Dep First Minister - Securing the implementation of the Belfast Agree	U	0
12/02/2001	Ch.Staff	PM	Northern Ireland: Text	U	0
12/02/2001	FA/APS	Ch.Staff	Northern Ireland Negotiations: Key Texts	C	0
12/02/2001	PM		(PM) To all Cabinet Ministers: Tackling Organised Crime in Norther	U	0
12/02/2001	FA/APS	NIO	(T) Telephone Conversation with Taoiseach	C	0
12/02/2001	MOD	FA/APS	Comments on draft to Dermot Gallagher on the Bloody Sunday Inqui	C	0
13/02/2001	Ch.Staff	Teahon	Bloody Sunday Inquiry	C	0
13/02/2001	FA/APS	NIO	Policy Proposals for Reform of the Criminal Justice System in North	C	0
13/02/2001	FA/APS	NIO	(T) Telephone conversation with Gerry Adams	C	0
13/02/2001	FA/APS	NIO	(T) Telephone conversation with David Trimble	C	0
13/02/2001	FA/APS	Ch.Staff	Northern Ireland negotiations: (updated) key texts	C	0
13/02/2001	SS/NIO	PM	Northern Ireland: Forthcoming District Council Elections	C	0

Ireland sit
PT 89
97-01.

From: Michael Tatham
Date: 13 February 2001

JONATHAN POWELL

cc: Bill Jeffrey
William Fittall

NORTHERN IRELAND NEGOTIATIONS: (UPDATED) KEY TEXTS

Following today's discussions with the Irish, I have assembled an updated collection of the texts currently in play:

A - Private text on legislative proposals (reflecting today's discussions with the Irish).

B - a note on policing issues raised by Sinn Fein (incorporating language on the non-legislative proposals discussed with the Irish today).

C - British Government statement on policing accompanying publication of the updated implementation plan (incorporating language agreed with Sinn Fein on amending legislation).

D - the Downing Street text of 23 January on policing points raised by Sinn Fein.

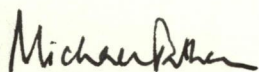
E - joint statement by the two governments (incorporating commitments on OTRs).

F - statement by the Chief Constable

G - language (from Chequers) on an implementation group.

H - language (from Chequers) on putting weapons beyond use.

I - language (from Chequers) on Sinn Fein/SDLP commitment on policing (NB out of date end-January timescale).



MICHAEL TATHAM

PRIVATE TEXT

LEGISLATIVE PROPOSALS

Sections 24 and 27

Long-term policing objectives and codes of practice

Amend to bring out that in each case the Secretary of State is to consult the Board and others with a view to reaching agreement.

Section 25(2)

Board's medium-term objectives

Board to "take account of" long-term objectives in drawing up policing objectives

Section 59(3)(d)

Delete

Section 60(3)(d)

Delete

Schedule 3 paragraph 8(2)

Independent membership of DPPs

Disqualification to be removed

Sections 20 to 23

Public meetings of Board and DPPs

Government publicly committed to Patten approach. Recommendation on DPP public meetings will be covered in Board code of practice. Public meetings of Board already covered in Schedule 1

Section 21(2)

Belfast DPP sub-groups

Expand functions, for example to include the function set out in Section 16(1)(c).

Section 1

Name

Clarification of the name if required.

fa-eaps\legislative

The position on the specific points which Sinn Fein have raised is as follows:

New Oath

The Act sets out the need for all serving and new police officers to carry out their duties in accordance with the terms of the new Oath thus putting all officers on the same footing. It is the intention that a record will be made in each case confirming that the new oath has been drawn to the officer's attention and that he/she understands the need to act in accordance with it. The oath is declaratory: sanctions apply to non-observance of the code of ethics. The code will be binding on all officers and will be reflected in regulations relating to conduct and discipline. In preparing the new code the Chief Constable and Board are required to have regard to the terms of the new Oath.

Badges, Flags and Emblems

On badges and flags, the Secretary of State will consult the Board and others, as required in the legislation, before reaching a decision. The aim is to secure consensus in the Board. If this is not achieved the Government will not propose a solution which would deter recruits or be objectionable to a substantial part of the community: the Government's bottom line will be the same as Patten's.

Oversight Commissioner

The Oversight Commissioner will be responsible for overseeing the implementation of changes in policing arrangements and structures recommended in the Patten Report. The Oversight Commissioner has already circulated a full report setting out the methodology by which he and his team will carry out their task. The Government has accepted the report. The Oversight Commissioner will monitor progress with implementation; will report at least three times a year, and will be able to draw attention to shortcomings in implementation and make recommendations. This could include recommendations for changes in the legislation if the Commissioner concluded that aspects of the Act were inhibiting the new beginning to policing as envisaged in the Good Friday Agreement.

Time-Limit for Complaints and References to Ombudsman

Under the Police Act 2000 the powers of the Ombudsman have been extended and the Government is ensuring that the office will be adequately staffed and resourced. The Ombudsman has unprecedented powers which will enable her to

initiate investigations into individual complaints, and arising from them, draw attention to police practices and policies which raise difficulties. She may carry out research for this purpose. She will also have powers of retrospection. The Government will make regulations under the Police Act extending the circumstances under which the Ombudsman may deal with complaints dating back more than two years, to cover cases which she considers grave or exceptional and which involve new evidence. In a case which has already been the subject of a complaint, the Ombudsman will be able to consider whether evidence about the adequacy of any earlier investigation constitutes new evidence.

In this context, the Ombudsman will be supplied by the Chief Constable and the Policing Board with such information and documents as she may require.

We referred previously to the substance of the draft Police Complaints Regulations, to be made under the 1998 Act as amended. Copies of the Regulations were made available during the passage of legislation. The regulations have yet to be finalised and are subject to further consideration with interested parties. A copy of the latest draft has already been provided.

Demilitarisation of buildings, vehicles etc

Patten made a series of recommendations on normalisation. These include making the appearance of police stations and of police vehicles less forbidding, a reduced role for the Army, closure of interrogation centres, the creation of a routinely unarmed police service, and the early phasing out of reliance on emergency legislation. Implementation of these recommendations has begun and will be advanced as quickly as conditions allow. We confirm that implementation of these recommendations will be subject to the scrutiny of the Oversight Commissioner.

Police Reserve

The Government is fully committed to phasing out the **Full Time Reserve**, as recommended by Patten, as soon as possible, taking account of the overall manpower situation in the light of the security situation. The process has, in effect, begun and numbers are decreasing. The strength of the Full Time Reserve has been reduced by over 600 and there has been no recruitment for three years. It is projected to fall by a further 700 over the next two years, producing an overall reduction of over 40 per cent. This takes no account of the

non-renewal of contracts, which will be a further step. We want this process to start, if possible, once the first new recruits start operational service in early 2002. The timescale is inevitably bound up with some difficult contractual issues which require further discussion with the Police Federation. We also aim to initiate the recruitment of an enlarged **Part Time Reserve** this year. The aim would be to bring the service up to 2,500 within three years of start up.

Special Branch and its support units

The Government and the Chief Constable have accepted all of the Patten recommendations in relation to Special Branch. The Chief Constable has announced his intention to bring Special Branch and the Crime Department under a single Assistant Chief Constable from 1 April. The Patten Report identifies 850 officers being attached to Special Branch. By March 2001 the Chief Constable expects to reduce this figure to around 765, a reduction of some ten per cent. The Chief Constable then aims, by September 2001, to amalgamate into the wider police service those units commonly referred to as support units (Patten recommendation 101). These units include support teams, including training, technical and air support units. This would by that stage have reduced Special Branch by over 40 per cent.

It is intended that the new tenure policy for the service will be finalised by September 2001. This would include an objective of five to seven years, with a maximum continuous period of the order of seven years for officers deployed in Special Branch.

Public order equipment

The Government has accepted and is implementing all the Patten recommendations in relation to Plastic Baton Rounds. The terms of reference of a research programme have been published. The conclusions of the first phase of the programme will also be published in the new few weeks. The next phase will involve preparation of research proposals. The Government will urgently advance the research programme recommended by Patten to find an acceptable alternative to plastic baton rounds. In the meantime, the use of plastic baton rounds will be avoided to the maximum extent. This area will be subject to scrutiny by the Oversight Commissioner.

Human rights offenders within the RUC

The Government agrees with the Patten Report (paragraph 5.19) that "bad apples" need to be dealt with. The Ombudsman has unprecedentedly wide powers to investigate complaints and individual cases and to provide an appropriate remedy. She has powers to initiate an investigation even if no specific complaint has been received, but where she believes that a criminal or disciplinary offence may have been committed under section 55 of the Police Act 1998. The regulations will provide for her to investigate cases arising before her office was established. There are just on 100 staff in her office. As already noted, the Government is committed to ensuring that her office is adequately resourced.

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**BRITISH GOVERNMENT'S STATEMENT ON POLICING
ACCOMPANYING PUBLICATION OF UPDATED IMPLEMENTATION
PLAN**

[This text reflects Sinn Fein and SDLP concerns. As the Prime Minister has made clear, the final version will need to reflect concerns of other parties once they have been brought into discussions.]

It is over two and a half years since the signing of the Good Friday Agreement and some 15 months since the publication of the report by the Independent Commission on Policing (the Patten Report) which had its origins in that Agreement.

The Government fully accepts, as described in the Good Friday Agreement, that it is

Essential that policing structures and arrangements are such that the police service is professional, effective and efficient, fair and impartial, free from partisan political control: accountable, both under the law for its actions and to the community it serves; representative of the society it polices, and operates within a coherent and co-operative criminal justice system, which conforms with human rights norms.

That remains the Government's steadfast goal.

The Government is fully committed to the vision of the new beginning in policing. It wishes to see a police service that is supported by both traditions, is effective and enjoys the confidence of all sections of the community in Northern Ireland.

The Police Act 2000 and an updated Implementation Plan, that is being published today, lay the ground work and establish a road map for the implementation of the Patten recommendations. In its consultation with those directly involved in implementation and others, the Government acknowledges that concerns have been raised. The point has been made by many that in an unprecedentedly large programme of this magnitude, greater certainty was required.

The Plan covers all 175 of the Patten Report recommendations. Significant progress has already been made in many areas. For example, the Ombudsman's Office is now fully operational (and she will shortly be given further powers).

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Two of the holding centres have been closed. An external agency has been appointed to conduct recruitment to the police and the process for appointments to the Policing Board has begun.

The Plan has been updated to take account of points raised by the parties and of the substantial work which the Chief Constable and his colleagues have done to prepare for the new service, against a tight timetable and in the face of continuing policing pressures. Further steps will take place shortly. By April the recruitment campaign will be launched to attract new regular trainees on a 50-50 basis. They will begin training in September. District Policing Partnerships will be set up by the end of 2001. They (and their sub-groups in Belfast) will interface with the Police District Commands which will be established in April. The objective is to bring about effective community policing and the DPPs will play a crucial role in achieving this.

The Implementation Plan will provide clearer timetables for increasing the Part-time Reserve and phasing out the Full-Time Reserve. Gough holding centre will close in the next few months, once alternative accommodation is available. The Special Branch and CID will be brought together under the management of one Assistant Chief Constable in April. The aim is for the redeployment of support units to take place this year and for a new tenure policy to be operational by September. The Plan makes plain the commitment to establish a human rights-based approach to policing, accountable against defined standards. The Plan also sets out the Government's position in relation to the important symbolic issues.

Underpinning the Plan is the Government's determination to maintain law and order through the development of a police service and which gains strength from more widespread community support.

The Government is now taking steps to set up a Policing Board which will be representative of the community in Northern Ireland. The Policing Board will, alongside the Ombudsman, have powers that are without precedent in the United Kingdom, in the Republic of Ireland, in Europe or America. It will determine objectives for the policing of Northern Ireland and it will issue the policing plan. It will be empowered to call for reports from the Chief Constable on matters connected with policing, including performance against the policing plan, and to initiate inquiries.

On the basis set out in this document and the implementation plan, the Government welcomes the commitment given by the parties represented in the Executive to nominate members to the Policing Board.

All these steps are the start of a process of change. The Government will want to keep the effectiveness of the new arrangements under close and constant review. The Oversight Commissioner will monitor progress on implementation and will report at least three times a year.

In addition, after the first twelve months of operation, the Government will ask the Oversight Commissioner to carry out a comprehensive review of implementation thus far, in the course of which he will be able to identify any shortcomings in the Police Act 2000 in bringing about the new beginning in policing and in providing an effective Police Service, able to do its job, and acceptable to all parts of the community. In conducting this review, the Oversight Commissioner will consult closely with the Policing Board, the Chief Constable, DPPS, political parties and other organisations in Northern Ireland. The Policing Board will also be invited to express views direct to the Government on the legislation after twelve months of operation. The British Government is aware of the concerns that have been expressed that the Government's legislation does not fully implement the letter and spirit of the Patten report and deliver the new police service we all want. These concerns include, in particular, the tripartite arrangements for accountability and the powers of the Policing Board, disqualification from independent membership of DPPs, extension of the functions of the Belfast DPP subgroups and clarification of the name if required. We make it clear that the Government will amend legislation to remedy each of these and other concerns in keeping with Patten as rapidly as possible after the conclusion of the review in [June 2002].

Now is the time for the whole community to demonstrate commitment to the new beginning to policing. That calls for unequivocal support for and co-operation with the new police service, and the encouragement of young people to join the police. By participating in this way, the whole community can together help to shape the future. For it is only through cross-community support, at local, district and national level, that the vision can and will be delivered.

The position on the specific points in the Sinn Fein papers is as follows:

New Oath

1. The Act sets out the need for all serving and new police officers to carry out their duties in accordance with the terms of the new Oath. In addition the code of ethics will be binding on all officers and will be reflected in regulations relating to conduct and discipline. In preparing the new code the Chief Constable and Board are required to have regard to the terms of the new Oath.

Tripartite Arrangements

2. Patten makes it clear that the police should be "impartial servants of the community rather than executives of current government policy". To achieve this two things are necessary, (a) freedom for the Chief Constable to take operational decisions without direction from either government or Policing Board: (b) accountability for the manner in which he and the police generally exercise their responsibilities. All good police services both require the flexibility to take operational decisions and are required to be accountable for them. The tripartite relationship between the Secretary of State, the Policing Board and the Chief Constable is designed to deliver these twin objectives.

Patten (6.4) suggested that the tripartite relationship be as follows

The Secretary of State should be able to set long-term governmental objectives or principles; the Policing Board should set medium-term objectives and priorities; and the police should develop the short-term tactical plans for delivering those objectives.

The Act attempts to get this balance right in relation, for instance, to setting plans and standards for the police, holding them accountable for the efficiency and effectiveness of the service, for its financial management and for maintaining standards. However, the review will clearly wish to consider how the balance between the functions and powers of the Secretary of State, the Board and the Chief Constable has worked in practice and whether any changes are required.

Patten (6.21) defined operational responsibility as

The Chief Constable's right and duty to take operational decisions neither the Government nor Policing Board should have the right to direct the Chief Constable as to how to conduct an operation. (This) does not mean that the Chief Constable's conduct of an operational matter should be exempted from inquiry or review after the event.

The Government accepts this.

Section 33, which provides that the Police shall be under the direction and control of the Chief Constable, refers to his **operational responsibility**. Section 59 provides for the Board to require reports from the Chief Constable on any matter connected with policing. The Board can then, in certain circumstances, initiate an inquiry.

Chief Constable's Reports to Board and Board Inquiries

3&4 The Government has stated that it will consider a good practice code setting out in more detail how the Secretary of State would approach proposals from the Policing Board for inquiries (under section 60 of the Act). The Government has not yet prepared the code in detail, but it would envisage it covering areas such as:

- arrangements for requests for additional funding for inquiries;
- arrangements for the Board to give reasons why it considers something should be the subject of an inquiry;
- the manner in which the Secretary of State might seek further information or give his reasons for refusal;
- consideration, with the Board, of options short of an inquiry if the Secretary of State is inclined to refuse a Board request;
- consultation of others with an interest, before reaching a judgement;
- the possibility of the Board making further representations.

The legislation allows information about things which happened before the Board was established to be considered if relevant to a current inquiry.

District Policing Partnerships

5. The Government regards the District Policing Partnerships as a fundamental component of the new beginning and as a vital element of the accountability arrangements. They should have a key role in developing community policing. The Government want to see close co-operation between the new police service, district councils and all others who can contribute to delivering effective community safety.

The primary function of a DPP is to provide views to the district commander on any matter concerning the policing of the district. The Belfast sub-groups have the same function with the additional role of providing views on the same matters to the Belfast DPP.

In respect of the provision that those with criminal convictions should not be able to serve as independent members of DPPs, this is a matter which can be addressed in the review.

Police Districts

6. In addition to the DPP for Belfast, there will be four sub-groups, one for each police district. The number of police districts will not be changed without the closest consultation with the Policing Board, the DPP sub-groups and the Belfast City Council. The sub-groups will have the same primary function as the DPPs themselves, ie they will be able to voice the views of the local community to the local police commander and the Belfast DPP.

Time-limit for Complaints and References to Ombudsman

7. Under the Police Act 2000 the powers of the Ombudsman have been extended and the Government is ensuring that the office will be adequately staffed and resourced. The Ombudsman has unprecedented powers which will enable her to initiate investigations into individual complaints, and arising from them, draw attention to police practices and policies which raise difficulties. She may carry out research for this purpose. She will also have certain powers of retrospection. The Government will make regulations under the Police Act changing the circumstances under which the Ombudsman may deal with complaints dating back more than two years. The intention is that, under these regulations, she will be able to do so, either:

- (a) if the complaint is not substantially the same as one previously received and she believes there may have been a criminal or disciplinary offence and she considers it grave or exceptional, or
- (b) if there is new evidence (even if the complaint had been considered before) and she believes there may have been a criminal or disciplinary offence and she considers it is grave or exceptional (unless it had already been the subject of disciplinary or criminal proceedings).

We referred previously to the substance of the draft Police Complaints Regulations, to be made under the 1998 Act as amended. Copies of the Regulations were made available during the passage of the legislation. The regulations have yet to be finalised, but subject to further consideration with interested parties, a copy of the latest draft is attached.

Covert Policing

8. The Patten recommendations in respect of covert policing have already been largely implemented. The Regulation of Investigatory Powers Act came into force on 2 October 2000. It makes provision for the regulation of covert policing techniques. There will be a Code of Practice on the use of such techniques. There will be a Statutory Surveillance Commissioner with oversight responsibility for the police in Northern Ireland. A Complaints Tribunal has also been established.

Community Policing

9. The Government has accepted all the Patten recommendations on community policing. Police officers have a statutory duty to carry out their functions in co-operation with and with the aim of securing the support of the local community. It is the Government's intention that policing with the community would be a core function of the police service and its officers and that the Police Service of Northern Ireland should be at the leading edge of developments in community policing.

Demilitarisation

10. Patten made a series of recommendations on normalisation. These include making the appearance of police stations and of police vehicles less forbidding. There has already been progress in several of these areas, as set out in the draft Implementation Plan. We confirm that implementation of these recommendations will be subject to the scrutiny

of the Oversight Commissioner.

Plastic Bullets

11. The Government is implementing the Patten recommendations in relation to Plastic Baton Rounds. The terms of reference of a research programme, the first phase of which will finish later this month, are attached. The next phase will involve preparation of research proposals. This area will be subject to scrutiny by the Oversight Commissioner.

Identification of Police Officers

12. Section 55 requires the Chief Constable to ensure that, as far as practicable, police officers' unique numbers are clearly visible at all times when they are on duty and in uniform. This will also apply to protective public order clothing. This will facilitate identification of individual officers and their station. As failure by an officer to comply could be a disciplinary offence, the term "as far as practicable" recognises that there will inevitably be exceptional circumstances when an officer may not be able to comply. This matter can be considered by the review.

Special Branch

13. The Government and the Chief Constable have accepted all of the Patten recommendations in relation to Special Branch. The Chief Constable has announced his intention to bring Special Branch and the Crime Department under a single ACC from 1 April and to proceed with support unit redeployment as soon as he is able. He intends to introduce a new tenure policy bearing on the length of postings in Special Branch in September. The Oversight Commissioner will, of course, monitor the implementation of the new arrangements.

Police Reserve

14. The Government is fully committed to phasing out the Full Time Reserve as soon as possible, taking account of the overall manpower situation in the light of the security situation. The process has, in effect, begun and numbers are decreasing. The strength of the Full-Time Reserve has been reduced by over 600 and there has been no recruitment for three years. A further step will be the non-renewal of contracts. We want this process to start, if possible, once the first new recruits start operational service in early 2002. The timescale is inevitably bound up with some difficult contractual issues which require further discussion with the Police Federation. We also aim to initiate the recruitment of an enlarged part-

time reserve this year. The aim would be to bring the service up to 2,500 within three years of start-up.

Recruitment Arrangements and Composition

15. The 50/50 requirement is necessarily expressed in terms of Catholics and others. But it is, of course, our wish to attract officers from all parts of the community, including nationalists and republicans. The recruitment strategy will make clear that applications from across the community are sought. The initial advertising will appear by the middle of February. The Board will itself appoint lay observers to provide it with additional support in overseeing the effectiveness of the recruitment process.

On composition, the Government's and the Chief Constable's intention is directly in line with Patten. A contract is being finalised with an external recruitment agency now, and both regular and part-time Reserve trainees will be recruited later this year. It is the current intention to recruit nearly 500 Regulars in a full year. Moreover, the four-year timeframe envisaged in Patten for the expansion of the part-time Reserve has been reduced to three years. Recruitment will be targeted on areas where there are currently very few Reservists or none at all. There remain contractual issues to be finalised in relation to members of the full-time Reserve, as previously noted. Work is being taken forward urgently, and discussions will be held with the Federation. On lateral entry, it remains the position that the Government is still awaiting material from the Irish side, without which it is difficult to make progress.

Registration of Interests

16. The Act requires all police officers to inform the Chief Constable of their membership of organisations which might be regarded as affecting their ability to discharge their duties effectively and impartially. The Chief Constable will issue public guidance, having first consulted the Policing Board and the Human Rights Commission, on its contents. Under the Act, the Ombudsman has full access to this information.

Name of the Police

17. The purpose of the reference to RUC in Section 1(1) of the Police Act is to demonstrate that the RUC is not being disbanded. The Government has made clear, however, that the new service is the Police Service of Northern Ireland and that that name will be used for all operational and working purposes, including whenever and in whatever circumstances the

police interface with the public. The matter will be kept under review and will be monitored by the Oversight Commissioner. The Government is willing to return to it if necessary.

Flags and Emblems

18. On badges and flags, the Secretary of State will consult the Board and others, as required in the legislation, before reaching a decision. The aim is to secure consensus in the Board. If this is not achieved the Government will not propose a solution which would deter recruits or be objectionable to a substantial part of the community: the Government's bottom line will be the same as Patten's.

Police Memorials

19. Section 70 of the Act provides for the RUC GC Foundation. Regulations will in particular provide for the Foundation to undertake joint initiatives with the Widows Association, the Disabled Police Officers Association and associated organisations.

Oversight Commissioner

20. As set out in his terms of reference the Oversight Commissioner will be responsible for overseeing the implementation of changes in policing arrangements and structures decided on in the context of the Patten Report. The Oversight Commissioner has already circulated a full report setting out the methodology by which he and his team will carry out their task. The Government has accepted the report. The Oversight Commissioner will oversee the implementation of the changes brought in by the legislation and of the Implementation Plan. He will both provide public assurance about the progress being made and draw attention to any delays or failures which give rise to concern.

Appointments to the Policing Board

21. The Government is looking urgently at the question which has been raised about the appointment of the independent members of the Policing Board.

Review of the Effectiveness of the Legislation

22. The Government acknowledge that concerns have been expressed about how far the Police Act provides for the new beginning to policing envisaged by the Good Friday Agreement. It will itself want to keep the effectiveness of the new arrangements under close scrutiny.

The Oversight Commissioner, Tom Constantine, will monitor progress with implementation. He will report, publicly, three times a year.

The Government will ask Mr Constantine to prepare a comprehensive review of implementation thus far at the end of the first year of operations. This will include drawing attention to any shortcomings that he may perceive in the legislation in bringing about the new beginning to policing and an effective police service acceptable to all parts of the community. In conducting his review, he will consult closely with the Policing Board, the Chief Constable, District Policing Partnerships, political parties and other organisations. It will be open to him to recommend changes in the legislation.

At the same stage, the Policing Board will also be invited to express views direct to Government on the legislation after twelve months of operation.

In the light of these reports, the Government will consider such changes including any legislative changes that may be required with an open mind. It will publish its conclusions together with an indicative timetable for any changes proposed.

Text sent to Irish to
hand over to Sinn Fein on
24 Jan.

DRAFT

STATEMENT BY THE TWO GOVERNMENTS

In a joint statement on 5 May, the two Governments set out proposals for securing full implementation of the Good Friday Agreement, and committed themselves to the steps necessary to achieve that goal. Since then, substantial progress has been made, but outstanding difficulties remain, and we have been discussing with the pro-Agreement parties how these can be overcome.

~~In the light of these discussions, we now believe that there is a new~~
understanding on the part of all parties about how the remaining issues can be resolved and the Agreement fully implemented.

As indicated in the May statement, the British Government will progressively take all the necessary steps to secure as early a return as possible to normal security arrangements in Northern Ireland, consistent with the level of threat. It is their intention to continue with this process until complete normalisation is restored in Northern Ireland. But it can only be on the basis of a continuing implementation of the Good Friday Agreement and the assessment of threat and danger to the community and people in Northern Ireland. Provided this threat is reduced, the British Government will carry out a progressive rolling programme reducing levels of troops and installations in Northern Ireland. Ultimately the normal state would mean the vacation, return or demolition of the great majority of Army bases, the demolition and vacation of all surveillance towers, no further Army presence in police stations and the use of helicopters only for training purposes.

The two Governments believe that two things are now essential: that all paramilitary groups engage fully and actively with the Independent International Commission on Decommissioning; and that the current restrictions on the operation of the North/South Ministerial Council be lifted. We call on those concerned to take the necessary steps.

Full and active re-engagement with the IICD will, as a first step, make it possible for the IICD to consider whether, as envisaged in our May statement, "there are any further proposals for decommissioning schemes which offer the Commission greater scope to proceed in more effective and satisfactory ways with the discharge of its basic mandate." The Governments would expect an early report

on this matter, with a view to further rapid progress being made on the issue of arms thereafter.

The British Government is fully committed to the new beginning in policing through the establishment of a policing service supported by and fully representative of both traditions and all sections of the community in Northern Ireland. It is [today] publishing an updated version of the Implementation Plan for the policing reforms, which addresses concerns expressed by the parties and others and of the development in greater detail of the Chief Constable's plans for implementation. [The two Governments welcome the fact that all the parties eligible to do so have now indicated that they are willing to nominate political members of the Policing Board.]

With the completion of the early release scheme, the two Governments recognise also that there is an issue to be addressed about supporters of organisations now on ceasefire against whom there are outstanding prosecutions, and in some cases, extradition proceedings, for offences committed before 10 April 1998. Such people would, if convicted, stand to benefit from the early release scheme. The Governments accept that, as a matter of policy, it would be a natural development of the scheme for such prosecutions not to be pursued, and will take such steps as are necessary in their jurisdictions to deal with this difficulty, so that those concerned are no longer pursued.

With a view to coordinating and monitoring the implementation of remaining aspects of the Agreement, the two Governments will continue to work closely together, and to consult the parties.

There is now an opportunity to restore the momentum behind the implementation of the Agreement, and to achieve the goal of a permanent peace and political stability. We urge all concerned to respond positively to this statement.

DRAFT

STATEMENT BY THE CHIEF CONSTABLE

The Chief Constable today announced that he had conducted an assessment of the overall security threat and had concluded, in consultation with the GOC, that, notwithstanding a significant ongoing threat by the dissidents, today's events represent a real lowering of the overall threat. This, he said, assuming that all the commitments given today are honoured, makes appropriate the following steps which would be taken as soon as logistically possible:

- ~~demolition of the supersangar at Newtonhamilton Police Station adjacent to the helicopter landing site;~~
- demolition of Magherafelt army base;
- demolition of the observation tower on Sturgan Mountain and one of the observation towers on Camlough Mountain.

Language from Cheques,

19 Jan.

IMPLEMENTATION GROUP

Creation of an informal Implementation Group; to comprise senior officials from Irish Government and British Government.

Remit:

To meet privately to liaise and exchange information on an ongoing basis, and monitor the implementation of commitments made, including on policing, security normalisation, OTRs and the issue of arms.

To report progress and identify outstanding commitments.

To agree, where possible, actions and remedies to meet outstanding commitments and report differences to Ministers.

To meet fortnightly and more regularly as required.

To report to the British Prime Minister and An Taoiseach, not later than 72 hours after each meeting.

Representatives of Sinn Fein to be involved in meetings.

A dedicated representative from the two Governments and Sinn Fein to liaise and exchange information on an ongoing basis, between meetings.

Language from
Cheques, 19 Jan

STEPS TO PUTTING WEAPONS BEYOND USE

- Statement by IRA announcing re-engagement with IICD for the purpose of agreeing how weapons will be put completely and verifiably beyond use. IICD report that re-engagement has taken place and that these discussions are under way.
- ~~IICD announces that agreement reached on how weapons to be put beyond use.~~
- IICD report that weapons put beyond use in the manner agreed with the IICD.
- Private undertaking to the Prime Minister on the timetable on which all three steps will take place, with the first putting of weapons beyond use by Easter.

Language from
Chequers, 19 Jan

Policing

- Sinn Fein and SDLP to nominate political members to the Policing Board by end January for the purpose of making preparations for the assumption of its powers by the Policing Board, including advising the Secretary of State on the new service's badge and flag-flying policy.

cos\policing



10 DOWNING STREET

PM

Changing the date of MI Local Elections

This is tricky. Any move now gives a message about the date of a UK election. But rushing the legislation in the last few days of the holiday will be difficult. St. Dup and others will attack us for gerrymandering.

You better ask Don Trinkle how much he wants it. We can't move it unless any deal this week.

✓

✓



SECRETARY OF STATE
FOR
NORTHERN IRELAND

JR
LJS
VMT
CS
AC

Prime Minister

NORTHERN IRELAND: FORTHCOMING DISTRICT COUNCIL ELECTIONS

When I spoke to David Trimble after his party executive meeting on Saturday he confirmed that the UUP wanted the district council elections synchronised with the general election, if it is called for May. Following my letter of 30 January your office asked for further advice on whether this could be done without saying anything publicly or taking the legislation through until a general election had been called.

The answer is that district council elections will have to go ahead on Wednesday 16 May unless the law has been changed before 5 April. That means that in the event of a 3 May general election (but not a later date in May) it would in theory be possible to rush the legislation through between the announcement of the election and the prorogation of Parliament. We would be dependent on the co-operation of other parties in the House of Lords. We would also be giving the Chief Electoral Officer and district councils much less time than usual to prepare, thereby increasing the risk of mishap. These risks could be significantly reduced, without necessarily taking the legislation through now, if you were willing for a public indication to be given that synchronisation was an option. This would enable the Chief Electoral Officer, district councils and the political parties to do the necessary contingency planning. Whatever you conclude, we do



need a credible public position soon given the increasing speculation in Northern Ireland about the district council election date.

Detail

My letter of 30 January set out the background. District Council turn out in Northern Ireland is high by English standards – between 55 and 58% in the last three elections. But at the last three general elections the turn out in Northern Ireland has been between 67 and 70%. So a combined poll would undoubtedly produce a larger turn out in the district council elections than if they were held on a separate date. Trimble calculates that will benefit him. For that reason the DUP strongly oppose synchronisation. The SDLP are happy to go along with it. The smaller parties will be against as, almost certainly, will Sinn Féin.

There are three difficulties with trying to make the change at the last minute without any prior warning. The first is that we really need to have a credible public position now. Speculation among the parties and the media that we intend to change the date of the local elections is increasing. Paisley attacked Trimble at Assembly question time on 5 February for “advocating to the Secretary of State that the elections should be postponed”. If we carry on saying the elections will go ahead on 16 May and then do a last minute U-turn we will increase the handling difficulties.

Related to this is the second problem, which is that we would have to take through the necessary legislation in all its stages between the announcement of a general election and the proclamation. Denis Carter’s letter of 7 February points up the risks. We estimate that the Bill would run to about 5 clauses plus a couple of fairly lengthy schedules – perhaps a ten page Bill in all. The reason for the length is because the Bill would:



- extend the Representation of the People Act 1983 to Northern Ireland to allow for a combined poll;
- change the date of the local election in Northern Ireland;
- amend the local and parliamentary election rules; and
- compress the local election timetable.

The third difficulty is that we would need to compress at very short notice the normal 25 working day local election timetable to 17 working days (in line with the 17 day timetable for the General Election). The longer local election timetable reflects the greater complexity of PR(STV) local elections (for example, in 1997 in Northern Ireland there were around 100 candidates for the 18 seats contested in the General Election, compared with 977 candidates for 51 seats in the local election). The Chief Electoral Officer's advice remains that changing the date of the local election is in itself high risk and that an early announcement of the Government's intentions is vital.

The 25 day timetable means that 5 April is the point of no return for the present Wednesday 16 May district council election date. Unless legislation comes into force before that date it will be too late to move that election to another date.

What I think all this means is that you may yourself want to explore further with David Trimble just how much this matters to him, particularly in the context of a wider deal. He may, for his own reasons, want some early statement that, if the general election were to be in May, the Government would be prepared to hold the district council elections on the same date. That would not necessarily mean taking through the legislation unless the election was called. But a public indication of that



kind would give us a defensible position and enable the necessary, practical contingency planning to be done.

A copy of this minute goes to Jack Straw, Margaret Beckett and to Sir Richard Wilson.

A handwritten signature in black ink, consisting of a large, stylized 'R' with a horizontal line extending to the right and a vertical line crossing it.

JOHN REID

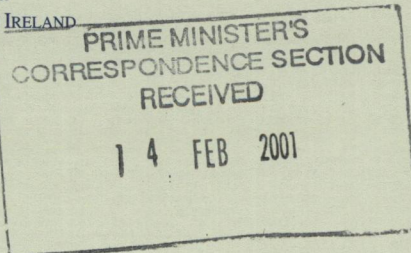
13 February 2001



SECRETARY OF STATE
FOR
NORTHERN IRELAND

Faxed

Prime Minister



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A copy of this minute goes to Jack Straw, Margaret Beckett and to Sir Richard Wilson.

A handwritten signature in black ink, consisting of a large, stylized 'R' with a horizontal line extending to the right and a vertical line extending downwards from the bottom of the 'R'.

JOHN REID

13 February 2001

CONFIDENTIAL - PERSONAL



10 DOWNING STREET
LONDON SW1A 2AA

SUBJECT
MASTER
FISHER

file

From the Private Secretary

13 February 2001

Dear Paul

TELEPHONE CONVERSATION WITH DAVID TRIMBLE

The Prime Minister spoke to Trimble early this evening.

The Prime Minister said we really had a sense now of moving into an end-game. We would know tomorrow morning if a deal was on or off. He had been clear with Sinn Fein that they must close tomorrow on what was on offer. If we did manage to secure a deal, we would need to move quickly: it could be awkward if Trimble was not in the country.

Trimble said his current plan was to leave the centre of London for the airport by 1400 tomorrow. His trip to the States was important: he would be attending a party political conference at which all of Bush's senior people (and possibly Bush himself) would be present. This aspect was more important than the official calls that had been set up. This was an opportunity that would not recur. He was also mindful of the fact that there had been several false end-games in recent weeks. Nevertheless, if something serious emerged tomorrow he would look again at his plans and reconsider. The Prime Minister said if Trimble ended up having to cancel, he would personally do what he could to restore the missed opportunities. Specifically, he would ask President Bush next week to try and make time to see Trimble when he next visited Washington.

Trimble was dubious about Sinn Fein's intentions. He suspected they had been trying to spin things out in the hope that he would be unable to hold the UUP together. Trimble also flagged up that he would need to be taken through the proposed deal in much greater detail than hitherto. There would be problem areas and a need for things to be done that would register positively with his people. He would come under particular pressure in the first few weeks when there would be little sign of visible movement. The Prime Minister said he had made clear that there was no done deal until it had been run in front of Trimble. We recognised he would be in an exposed position at first. He would however

CONFIDENTIAL - PERSONAL

be able to point to reengagement, initial reports from de Chastelain and Sinn Fein/SDLP coming onto the Policing Board. Trimble said that Sinn Fein's presence on the Board would be a mixed blessing. It was of long-term value but its immediate effect would be to unsettle the unionist community (who would take fright at the impression of Sinn Fein getting some influence over policing).

The Prime Minister and Trimble agreed to keep in touch tomorrow morning.

I am copying this letter to Sir Christopher Meyer (Washington).

Yours ever

Michael

MICHAEL TATHAM

Paul Priestly
NIO

File

(Not in Matrix)

CONFIDENTIAL - PERSONAL



10 DOWNING STREET
LONDON SW1A 2AA

SECRET
MASTER

Filed on Ireland:
Situation:
PC PA

From the Private Secretary

13 February 2001

Dear Paul

TELEPHONE CONVERSATION WITH GERRY ADAMS

The Prime Minister spoke to Gerry Adams this afternoon. He alerted Adams to the three documents we were faxing over to him (the private text on legislative proposals; the newly amended text responding to points raised by Sinn Fein; and the government statement on policing accompanying publication of the updated implementation plan). The Prime Minister said we were now in the end-game. We had frankly been pretty appalled by the points presented to us by the Irish this morning. The texts being faxed over were our bottom line. If a deal could not be done on this basis, then so be it. We could move no further. Even as it was, there was a huge question mark over whether we could sell this to the unionists. Adams took the point. He would look at the texts and get back to us or the Irish. We would then have to decide whether to call it.

The Prime Minister said he was thinking in terms of coming over tomorrow evening and staying through Thursday. Adams asked if the Prime Minister would come over anyway even if Sinn Fein could not accept the latest texts. The Prime Minister said we hoped not to be in that situation. But if we were, there would not be much point in going over. Adams said that whatever happened it would be important to keep things stable.

The Prime Minister repeated that these terms represented the furthest we could move. We believed they should be enough to settle any presentational issues on Sinn Fein's side. On the substance, we had no doubt that this represented a satisfactory basis for a new start to policing.

CONFIDENTIAL - PERSONAL

AS

The Prime Minister urged Adams to come back to us as soon as possible.
They should aim to try and speak again tomorrow.

Yours ever

Michael

MICHAEL TATHAM

Paul Priestly
NIO

CONFIDENTIAL

file (in Dec in box)



10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

13 February 2001

Dear Paul

**POLICY PROPOSALS FOR REFORM OF THE CRIMINAL JUSTICE
SYSTEM IN NORTHERN IRELAND**

The Prime Minister has seen the minute of 10 January from the then Secretary of State, as well as the comments from the Leader of the House and the Attorney General. He understands that the Lord Chancellor is content.

The Prime Minister is content with these recommendations and would like to see work taken forward on the drafting of new legislation. This is an important component of the Good Friday Agreement. The Prime Minister is conscious of the importance of meeting the timetable set out by himself and the Taoiseach (although this timing would presumably need to slip if there were to be elections in the late spring/early summer).

The Prime Minister has emphasised the importance of keeping the Judges on board and supportive of the reforms. Their commitment to the reforms will be crucial. He would like whatever efforts are necessary to be taken.

The Irish Government have already flagged up their desire to have input into the process of implementing the Criminal Justice Review. It will be important to strike the right balance between keeping the Irish supportive without giving them an exaggerated sense of locus.

The Prime Minister will, of course, want to be fully consulted about devolution of responsibility for the criminal justice system in Northern Ireland when the time is right.

CONFIDENTIAL

JC

CONFIDENTIAL

- 2 -

I am copying this letter to Hilary Jackson (Home Office), Debora Matthews (PS/Lord Chancellor), Rupert Cazalet (PS/Attorney General), Rupert Holderness (PS/Leader of the House) and Richard Abel (Cabinet Office).

Yours ever

Michael

MICHAEL TATHAM

Paul Priestly
NIO

CONFIDENTIAL

File

(In OCO (wbar))



10 DOWNING STREET
LONDON SW1A 2AA

FAXED

OND/13/2

From the Prime Minister's Chief of Staff

13 February 2001

Dear Democrat,

BLOODY SUNDAY INQUIRY

When we met last week you raised two points relating to the Bloody Sunday Inquiry: concerns about alleged withholding of army photographs; and the nature of Ministry of Defence (MOD) representation at the Inquiry.

Photographs

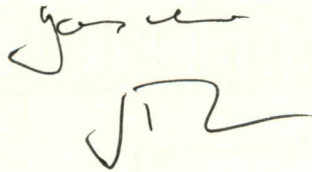
It is the case that Army orders from 1972 show that a small number of soldiers were issued with cameras to take photographs on the day. Despite exhaustive searches in MOD archives and elsewhere (such as the Imperial War Museum) none of these photographs has been found. It appears that the photographs were not provided to Lord Widgery and that the vast bulk were probably destroyed in 1972 or soon after. The work undertaken by the MOD to try to find the photographs has been explained to the Inquiry in a detailed witness statement.

I can imagine, given the highly-charged circumstances of the Inquiry, that this answer will give rise to suspicion. However I can give you a categorical assurance that we are not hiding or withholding any photographs. The soldiers concerned were not skilled or trained photographers; their cameras were basic. The most likely explanation is that any photographs they took were judged to be of poor quality and not worth preserving.

MOD representation at the Inquiry

Your concern, as I understand it, is that the MOD is not a party to the Inquiry and does not therefore have full-time legal representation. The reason for this is that the MOD of today is neither making nor facing allegations in connection with Bloody Sunday. However the hearings are attended by one or

more officials from the MOD who provide whatever assistance the Inquiry or parties might need. The Prime Minister pledged the Government's full support to the Inquiry; the MOD has done everything it can to help and will continue to do so.

A handwritten signature in black ink, appearing to read 'Jonathan Powell', with a stylized flourish at the end.


JONATHAN POWELL

Dermot Gallagher

01232521963
**THE OFFICE OF THE FIRST MINISTER AND
 DEPUTY FIRST MINISTER**

David Trimble First Minister
*Parliament Buildings,
 Stormont, Belfast BT4 3XX*

Mr Seamus Mallon MP MLA
 Deputy First Minister
 Office of the First Minister and Deputy First Minister
 Parliament Buildings
 Stormont
 BELFAST
 BT4 3XX

cc
JRO
JL
MT
AL
Per
to see


12 February 2001

Dear Seamus.

I hope you will forgive the formality of my writing to you at this time even though we are in daily contact in our work as First and Deputy First Ministers. I believe, however, that a measure of formality is appropriate at this time in order to place on record the very real concern I have regarding our ability to secure the implementation of the Belfast Agreement in all its aspects.

I have, as you know, written to Martin McGuinness and Bairbre de Brun explaining to them the reasons why I am of the opinion that, in the current circumstances, they are unsuitable for nomination to attend the North-South Ministerial Council because they have not made appropriate efforts to implement the Agreement particularly their commitment to bring about the decommissioning of all paramilitary arms.

In writing to you at this time I want to look beyond the immediate difficulties that have arisen in the context of the NSMC and instead to explain to you why I currently apprehend that it may not be possible for us to sustain the Agreement endorsed by the people of this Island almost 3 years ago.

I think we may be forgiven for the indulgence at this time of looking back at some of **our achievements to date**. Following two long years of intense negotiations, our Parties and the other participants in the multi-party talks arrived at an Agreement which, they believed at the time, represented a new beginning for politics in Northern Ireland. The Agreement was built upon a strong foundation of key principles, namely:

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- the principle of consent, which reinforces Northern Ireland's position within the United Kingdom for as long as this remains the wish of a majority of our people;
- the principle of responsibility-sharing among the political representatives of both our main communities, with decision-making grounded upon cross-community consensus;
- the principle of fully inclusive government, bringing together not only the largest democratic parties of our two traditions but also the political representatives of the Republican tradition in the context of their commitment to democracy and non-violence;
- the principle of democracy and non-violence, reinforced through the commitment to bring about the decommissioning of all paramilitary arms within two years;
- the principle of new relationships on the Island of Ireland and between these islands, given institutional expression through the North-South Ministerial Council and the British-Irish Council; and
- the establishment of a Civic Forum allowing non-elected representatives of civic society to share with us their experience on a broad range of social, economic and cultural matters.

Our people endorsed the Agreement in overwhelming numbers both North and South. That a significant minority of the unionist community withheld their approval was, I believe, illustrative of the compromises they were being asked to embrace from the outset including the early release of terrorist prisoners, anticipated reforms of policing and criminal justice – and, perhaps most significantly of all, the participation of the political representatives of Republicanism in government, albeit on the basis of a commitment to democracy and non-violence given practical expression through the decommissioning of paramilitary arms.

Following the endorsement of the Agreement and the election of the Assembly, our Parties strove in partnership to build **the institutions of the Agreement**. It is all too easy for us to become preoccupied with the day-to-day practicalities of our work as First Minister and Deputy First Minister and to forget just how much we have achieved in this regard:

- we have completely reshaped the architecture of regional government in Northern Ireland through the creation of 11 new Departments of government

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each under Northern Ireland Ministers drawn from, and accountable to, the Assembly;

- we have formed an inclusive Executive tasked with discharging the offices of government, albeit one of the Parties has chosen to remain (but only for the time being I believe) of the Executive but not within the Executive;
- we have established the North-South Ministerial Council with responsibility for the oversight of 6 implementation bodies and 6 areas for North-South co-operation – and I am sure you would agree that my fellow Ministers and I have to date participated fully in this sphere of our work in order to secure real benefits for the people of Northern Ireland;
- we have also established the British-Irish Council which draws together senior members of the British and Irish Governments and each of the other Administrations of the British Isles at a time when this is of increasing importance and value to counterbalance the potentially centrifugal forces of European enlargement and regional devolution.

In our work in developing and carrying-forward **important new areas of policy** I believe we can be no less proud of what we have achieved to date:

- a new budget in which some £9 billion of public funds was prioritised and distributed by Northern Ireland politicians for the benefit of the people of Northern Ireland;
- a Programme for Government setting out an exciting agenda of key priorities for our administration;
- the mainstreaming of equality and human rights throughout every aspect of our administration; and
- above all, placing in the hands of locally elected politicians the vital decisions which touch upon the lives of all our people – in relation to such important areas as the economy, agriculture, the environment, health, education and culture.

We have only just embarked upon much of the work to which I have referred. Even so, we are even now beginning to sketch out **our future priorities**, including:

- the development of a single Equality Bill to bring-together and modernise our law so as to ensure that every member of our society, irrespective of their

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- gender, colour, creed or life experience, can be confident that they will have real equality of opportunity in the future;
- a major Review of Public Administration allowing us to continue to reshape the architecture of government in Northern Ireland so as to deliver the highest quality public services to all our people;
 - the development of Public Service Agreements which will for the first time make fully transparent the work of government in a way which its customers can fully understand and hold to account; and
 - a raft of major policy reviews into many facets of public policy and administration which will directly engage the views of all our people helping us to take new and better decisions for the future.

I hope you will indulge me for having rehearsed all these matters at some length. I believe they represent a very real measure of achievement of which we can be justifiably proud. But in listing these achievements I do so in order to remind myself of just how much we risk losing should we fail, even now, to secure the implementation of the Agreement in all its aspects.

I very much regret to inform you that at present I entertain the very real possibility that all of these achievements may be lost to us. I believe that it will only be through a willingness on the part of our Parties – the UUP and the SDLP – that we shall be able to avoid this and to secure the Agreement. In asking for your support in addressing the difficulties now confronting us, I trust that you will accept that I have been at all times, and remain, fully committed to the implementation of the Belfast Agreement in all its aspects for the benefit of the people of Northern Ireland.

For my part, I would want you to know that I place the greatest confidence in you as the Deputy First Minister of Northern Ireland and acknowledge the commitment and courage you have at all times displayed in support of the Agreement. It is for this reason that I am now writing to you in these terms, because I believe that it will only be through our combined efforts as First Minister and Deputy First Minister, and through the working in partnership of our Parties, that we shall be able to secure the Agreement.

I know that for you personally, and for your Party, the creation of a **new police service** in Northern Ireland is a matter of the utmost importance. While we may have differed in our assessment of the Police Act and the review which preceded it, I think we both share a common vision of an effective and accountable police service which honours the sacrifice and professionalism which characterises the

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best traditions of the Royal Ulster Constabulary and which, at the same time, represents a new beginning for policing which secures the full participation and support of all sectors of our community.

It is my sincere belief that we should now agree to set aside whatever remaining differences there are between us regarding the Police Act and make a commitment to fully support and participate in the new police service and the new Policing Board. If we were to decline to give the new service our support in this way, I believe we would be acting in a manner which would not be fully compatible with our positions as First Minister and Deputy First Minister. Furthermore, failing to give this measure of support to the new police service would inevitably qualify in a significant and potentially damaging way what is a core component of the new beginning we believed we had secured under the Agreement. I would urge you, therefore, to give the most serious and urgent consideration to lifting your remaining reservations on the police reforms and fully endorse the new beginning for policing by making appointments now to the new Policing Board.

Just as the reforms to policing are a matter of the utmost sensitivity and concern for you and your Party, so too is the question of the **decommissioning of paramilitary arms** a touchstone for my Party's continuing support for the Agreement. Because of the profound step we were asked to take under the Agreement in accepting into an inclusive administration the political representatives of Republicanism, it is essential that early and meaningful progress is made to achieve the decommissioning of illegal weapons.

As the recent High Court judgment confirms, the endorsement of the Agreement in the referendums means that the participants in that Agreement are under a commitment to use their influence to bring about the decommissioning of all paramilitary weapons. Because of their close association – their inextricable link – with the Provisional IRA, this is a commitment which bears particularly heavily upon Sinn Fein. It is a matter of the most profound concern to my Party that there has to date been little if any evidence in the public domain of any genuine effort on the part of Sinn Fein to bring about the decommissioning of the weapons held illegally by the Provisional IRA. This issue is a litmus test of the transition from physical force Republicanism to democratic engagement, and the absence of any evidence of progress on decommissioning is such that I have concluded that it may not be possible to make further progress with the implementation of the Agreement until the commitment entered into by Sinn Fein/IRA is honoured.

Just as I have sought to suggest that the new beginning to policing is a matter for which we have a shared responsibility, so too I believe that we have a shared responsibility to achieve the decommissioning of paramilitary weapons. In making this suggestion I am mindful of the assurances you offered to the unionist

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community in your speech at the SDLP Party Conference in November 1998. At that time, describing the SDLP as the "custodians of the Agreement", you promised that the SDLP "will use all its resources, all its skills, all its experience, all its moral force to protect and implement the Agreement." Specifically addressing the concerns of the unionist community, you offered this explicit reassurance:

"For many Unionists there is the fear that Sinn Fein seeks to pocket the maximum sectoral advantage from the Agreement ... and then will fail to honour their decommissioning obligations under the Agreement within the specified two-year period.

I believe that this will not occur ... But no one should have any doubt that if it did happen the SDLP would rigorously enforce the terms of the Agreement and remove from office those who had so blatantly dishonoured their obligations."

I believe we may now be coming to the point when it is not unreasonable for the pro-Agreement unionist community to look to you and to your Party to discharge what you then described as a solemn guarantee from the SDLP.

In making this suggestion I would want to reiterate to you my commitment to the Belfast Agreement and its full implementation. At the same time, neither I nor my Party can stand idly by while those from the Republican tradition cherry-pick those aspects of the Agreement which they find most advantageous and, at the same time, turn their backs on other aspects of the Agreement which they find least palatable. However, the commitment they made to bring about decommissioning is a core part of the Agreement and one which was endorsed by the people of Ireland, North and South. The commitment to decommissioning is no less part of the Agreement today than it was on Good Friday 1998.

At this time, Sinn Fein stand condemned for having dishonoured their commitment to bring about decommissioning. The implications of this go far beyond the question whether Sinn Fein Ministers are suitable to attend meetings of the NSMC. It is, rather, an issue which, because it goes to the very heart of unionist confidence in an inclusive Agreement, has the potential to render that Agreement unworkable.

My purpose in writing to you at this time is to impress upon you the importance of this and the other issues to which I have referred, and to emphasise to you that unless our two Parties resolve to work in partnership to address these difficulties then we risk letting slip from our grasp the new beginning for our people which the Agreement represents. I hope that we can agree to meet together soon to discuss all of these matters and how we might work together to secure the Agreement.

01232521963

I am sending copies of this letter to the Prime Minister and to the Taoiseach.

Saved

RT HON DAVID TRIMBLE MP MLA
First Minister

*P.S. It is not my intention to
publish this at this time.*



Rec'd 13/2 @ 11:18 am

MINISTRY OF DEFENCE
WHITEHALL LONDON SW1A 2HB

Telephone 020 721 82111/2/3

SECRETARY OF STATE

MO 19/3/21C

12 February 2001

Dear Michael,

AJR
JS
AC

You asked for comments on your draft to Dermot Gallagher on the Bloody Sunday Inquiry. First, it is OK to call it that – it is the name that Lord Saville chose himself.

The section in your paragraphs 2 and 3 on photographs is fine. We have no comments to offer on that.

Bill Byat has proposed some comments on the following section on MOD representation at the Inquiry. He suggests replacing your two paragraphs with the following text:

"Your concern, as I understand it, is that the MoD is not a party to the Inquiry and does not therefore have full-time legal representation. The reason for this is that the MoD of today is neither making nor facing allegations in connection with Bloody Sunday. However, the hearings are attended by one or more officials from the MoD who provide whatever assistance the Inquiry or parties might need. The Prime Minister pledged the Government's full support to the Inquiry; the MoD has done everything it can to help and will continue to do so."

I hope this is helpful.

Yours ever,

David

(D P WILLIAMS)
Private Secretary

Michael Tatham Esq
10 Downing Street



Recycled Paper

cc. (by fax) **FAXED**

David Williams, MOI

DRAFT



10 DOWNING STREET
LONDON SW1A 2AA

We would like to send this to the Irish Govt. Can you check your experts are happy with this? Can we say any more about how helpful MoI is being?

Should we call it BSI or Savile Inquiry?

From the Prime Minister's Chief of Staff

Grateful for quick reply.

6 February 2001

Michael Fether

BLOODY SUNDAY INQUIRY

When we met last week you raised two points relating to the Bloody Sunday Inquiry: concerns about alleged withholding of army photographs; and the nature of Ministry of Defence (MOD) representation at the Inquiry.

Photographs

It is the case that Army orders from 1972 show that a small number of soldiers were issued with cameras to take photographs on the day. Despite exhaustive searches in MOD archives and elsewhere (such as the Imperial War Museum) none of these photographs has been found. It appears that the photographs were not provided to Lord Widgery and that the vast bulk were probably destroyed in 1972 or soon after. The work undertaken by the MOD to try to find the photographs has been explained to the Inquiry in a detailed witness statement.

I can imagine, given the highly-charged circumstances of the Inquiry, that this answer will give rise to suspicion. However I can give you a categorical assurance that we are not hiding or withholding any photographs. The soldiers concerned were not skilled or trained photographers; their cameras were basic. The most likely explanation is that any photographs they took were judged to be of poor quality and not worth preserving.

MOD representation at the Inquiry

Your concern, as I understand it, is that there has not been full time MOD legal representation at the Inquiry. The reason for this is because MOD is not a party to the Inquiry. It is neither making nor facing allegations in connection with Bloody Sunday.

However MOD is treating the Inquiry with the utmost seriousness. The hearings are always attended by one or more officials from the MOD who assist the Inquiry. Counsel for MOD attends hearings when asked to do so by the Tribunal.

JONATHAN POWELL

Dermot Gallagher

Jonathan Powell

From: Michael Tatham
Sent: 01 February 2001 18:19
To: Jonathan Powell; John Sawers
Subject: FW: MTX-(MOD) Bloody Sunday Inquiry

I've tested these lines with MOD and NIO. They both swear that on the photos there is no cover up. Any photographs taken in 1972 were not subject to any form of rigorous filing or registering. If they weren't of any value (likely to have been the case: squaddies with instamatics in the middle of a riot) they would simply have been chucked. Sinn Fein and the Irish will inevitably assume this is a cover-up. Genuinely not the case. Exhaustive searches have failed to uncover anything.

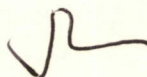
On legal representation, there is a costs angle apart from anything else. MOD not wanting to add to the waste of resources on BSI by having expensive Counsel sitting round with nothing to do. The Irish and Sinn Fein interpret this as meaning that MOD don't take the Inquiry seriously (there is material in the MOD lines to rebut this). Plus in Sinn Fein's case they want to be able to present MOD as "in the dock".

-----Original Message-----

From: Nik Duke
Sent: 01 February 2001 18:00
To: Michael Tatham
Cc: John Sawers; Jonathan Powell
Subject: MTX-(MOD) Bloody Sunday Inquiry

http://ds11/livelink/livelink.exe/262482/Bloody_Sunday_Inqu...pdf?func=doc.fetch&nodeid=262482&262482.262482

Mud
Can you find this out
a letter from the Dent
Gallyon



87140

MT
CCJS
JTB
Press



MINISTRY OF DEFENCE
WHITEHALL LONDON SW1A 2HB

Telephone 020 721 82111/2/3

SECRETARY OF STATE

MO 19/3/21C

1 February 2001

Dear Michael,

BLOODY SUNDAY INQUIRY

Further to our conversation earlier today, and to your conversation with Bill Byatt, I attach the bull points that you wanted on Army photographs and MOD representation at the Inquiry. Let me know if you need anything else.

Yours ever,

David

(D P WILLIAMS)
Private Secretary

Michael Tatham Esq
No 10 Downing Street



Recycled Paper

87140

BLOODY SUNDAY INQUIRY - ARMY PHOTOGRAPHS AND THE REPRESENTATION OF THE MOD AT THE INQUIRY**POINTS TO MAKE FOR THE PRIME MINISTER****A. Army photographs taken on Bloody Sunday**

1. Army orders from 1972 show that a small number of soldiers were issued with cameras to take photographs on the day.
2. Despite exhaustive searches in the MoD and elsewhere (such as the Imperial War Museum) none of these photographs has been found. It appears that the photographs were not provided to Lord Widgery and that the vast bulk were probably destroyed in 1972 or soon after.
3. This is not surprising. The soldiers were not skilled photographers; their cameras were basic. It is probable that any photographs they took were of poor quality and not worth preserving.
4. The work undertaken by the MOD to try to find the photographs has been explained to the Inquiry in a detailed witness statement.

B. MOD representation at the Inquiry

1. The MOD is not a party to the Inquiry, therefore it is not permanently represented by Counsel. The reasons were summarised by MOD Counsel at a hearing on 15 January.
2. In essence, this is because the MOD of today is neither making nor facing allegations in connection with Bloody Sunday. Allegations can be answered only by the individuals who were involved at the time.
3. But the hearings are always attended by one or more officials from the MOD who assist the Inquiry, and Counsel for the MOD invariably attends when asked to do so by the Tribunal.
4. Not for use: Informal indications suggest that the Tribunal agrees that the MOD should not be a party.

NOT on file. 12.2.01
89.

Pin
Seamus's lawyer a
Jedidiah. Corby
unlike.

Nelson, Hamill, Finucane

The Government accepts that these three cases are a source of grave public concern both in themselves and in terms of maintaining the necessary confidence in the administration of justice.

At the moment the Police Ombudsman is investigating aspects of the police investigation into the murder of Robert Hamill. When her investigation and any subsequent prosecutions have been concluded, the Government will establish a judicial inquiry into this murder, in order in particular to identify lessons to be learned for the investigation and prosecution of crimes with sectarian motivations.

Criminal investigations continue by Sir John Stevens into the case of Pat Finucane and related matters, and by Colin Port into the murder of Rosemary Nelson. When these investigations and any subsequent prosecutions have been concluded the Government will consult with the families concerned and will establish judicial inquiries into each of these two cases.

The inquiries in all cases will have access to all persons and papers and their findings and recommendations will be made public.

The Government will move to establish the inquiries by the end of January 2002 at the latest, unless this were clearly prejudicial to an imminent prosecution.

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*Ireland 89
sit 97-01.*

From: Michael Tatham
Date: 12 February 2001

JONATHAN POWELL

NORTHERN IRELAND NEGOTIATIONS: KEY TEXTS

Before this evening's meeting with the Irish, we agreed I would collate together the latest versions of all the texts currently in play. These are attached:

A - the latest text on amending legislation to be inserted into the British Government statement on Policing (**B**). This is slightly altered from the version attached to Bill Jeffrey's minute of 9 February.

B - the British Government statement on Policing accompanying publication of the updated implementation plan (incorporating the new text on amending legislation at **A**).

C - a note on other policing issues raised by Sinn Fein.

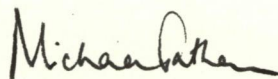
D - joint statement by the two governments (incorporating commitment on OTRs).

E - statement by the Chief Constable.

F - language on an implementation group.

G - language on putting weapons beyond use.

H - language (NB with out of date end-January timescale) on Sinn Fein/SDLP commitment on policing.



MICHAEL TATHAM

CONFIDENTIAL

Text given to Sir Feen
8/2.

The British Government is aware of the concerns that have been expressed that the Government's legislation does not fully implement the letter and spirit of the Patten report and deliver the new police service we all want. These concerns include, in particular, the tripartite arrangements for accountability and the powers of the Policing Board, disqualification from independent membership of DPPs, extension of the functions of the Belfast DPP subgroups and clarification of the name if required. We make it clear that the Government will amend legislation to remedy each of these and other concerns in keeping with Patten as rapidly as possible after the conclusion of the review in [June 2002].

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Text incorporating new
of 8/2
language on amending
legislation

BRITISH GOVERNMENT'S STATEMENT ON POLICING ACCOMPANYING PUBLICATION OF UPDATED IMPLEMENTATION PLAN

[This text reflects Sinn Fein and SDLP concerns. As the Prime Minister has made clear, the final version will need to reflect concerns of other parties once they have been brought into discussions.]

It is over two and a half years since the signing of the Good Friday Agreement and some 15 months since the publication of the report by the Independent Commission on Policing (the Patten Report) which had its origins in that Agreement.

The Government fully accepts, as described in the Good Friday Agreement, that it is

Essential that policing structures and arrangements are such that the police service is professional, effective and efficient, fair and impartial, free from partisan political control: accountable, both under the law for its actions and to the community it serves; representative of the society it polices, and operates within a coherent and co-operative criminal justice system, which conforms with human rights norms.

That remains the Government's steadfast goal.

The Government is fully committed to the vision of the new beginning in policing. It wishes to see a police service that is supported by both traditions, is effective and enjoys the confidence of all sections of the community in Northern Ireland.

The Police Act 2000 and an updated Implementation Plan, that is being published today, lay the ground work and establish a road map for the implementation of the Patten recommendations. In its consultation with those directly involved in implementation and others, the Government acknowledges that concerns have been raised. The point has been made by many that in an unprecedentedly large programme of this magnitude, greater certainty was required.

The Plan covers all 175 of the Patten Report recommendations. Significant progress has already been made in many areas. For example, the Ombudsman's Office is now fully operational (and she will shortly be given further powers).

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Two of the holding centres have been closed. An external agency has been appointed to conduct recruitment to the police and the process for appointments to the Policing Board has begun.

The Plan has been updated to take account of points raised by the parties and of the substantial work which the Chief Constable and his colleagues have done to prepare for the new service, against a tight timetable and in the face of continuing policing pressures. Further steps will take place shortly. By April the recruitment campaign will be launched to attract new regular trainees on a 50-50 basis. They will begin training in September. District Policing Partnerships will be set up by the end of 2001. They (and their sub-groups in Belfast) will interface with the Police District Commands which will be established in April. The objective is to bring about effective community policing and the DPPs will play a crucial role in achieving this.

The Implementation Plan will provide clearer timetables for increasing the Part-time Reserve and phasing out the Full-Time Reserve. Gough holding centre will close in the next few months, once alternative accommodation is available. The Special Branch and CID will be brought together under the management of one Assistant Chief Constable in April. The aim is for the redeployment of support units to take place this year and for a new tenure policy to be operational by September. The Plan makes plain the commitment to establish a human rights-based approach to policing, accountable against defined standards. The Plan also sets out the Government's position in relation to the important symbolic issues.

Underpinning the Plan is the Government's determination to maintain law and order through the development of a police service and which gains strength from more widespread community support.

The Government is now taking steps to set up a Policing Board which will be representative of the community in Northern Ireland. The Policing Board will, alongside the Ombudsman, have powers that are without precedent in the United Kingdom, in the Republic of Ireland, in Europe or America. It will determine objectives for the policing of Northern Ireland and it will issue the policing plan. It will be empowered to call for reports from the Chief Constable on matters connected with policing, including performance against the policing plan, and to initiate inquiries.

On the basis set out in this document and the implementation plan, the Government welcomes the commitment given by the parties represented in the Executive to nominate members to the Policing Board.

All these steps are the start of a process of change. The Government will want to keep the effectiveness of the new arrangements under close and constant review. The Oversight Commissioner will monitor progress on implementation and will report at least three times a year.

In addition, after the first twelve months of operation, the Government will ask the Oversight Commissioner to carry out a comprehensive review of implementation thus far, in the course of which he will be able to identify any shortcomings in the Police Act 2000 in bringing about the new beginning in policing and in providing an effective Police Service, able to do its job, and acceptable to all parts of the community. In conducting this review, the Oversight Commissioner will consult closely with the Policing Board, the Chief Constable, DPPS, political parties and other organisations in Northern Ireland. The Policing Board will also be invited to express views direct to the Government on the legislation after twelve months of operation. The British Government is aware of the concerns that have been expressed that the Government's legislation does not fully implement the letter and spirit of the Patten report and deliver the new police service we all want. These concerns include, in particular, the tripartite arrangements for accountability and the powers of the Policing Board, disqualification from independent membership of DPPs, extension of the functions of the Belfast DPP subgroups and clarification of the name if required. We make it clear that the Government will amend legislation to remedy each of these and other concerns in keeping with Patten as rapidly as possible after the conclusion of the review in [June 2002].

Now is the time for the whole community to demonstrate commitment to the new beginning to policing. That calls for unequivocal support for and co-operation with the new police service, and the encouragement of young people to join the police. By participating in this way, the whole community can together help to shape the future. For it is only through cross-community support, at local, district and national level, that the vision can and will be delivered.

*Text as it emerged after
talks on 8/2.*

The position on the specific points which Sinn Fein have raised is as follows:

New Oath

The Act sets out the need for all serving and new police officers to carry out their duties in accordance with the terms of the new Oath thus putting all officers on the same footing. In addition the code of ethics will be binding on all officers and will be reflected in regulations relating to conduct and discipline. In preparing the new code the Chief Constable and Board are required to have regard to the terms of the new Oath.

Badges, Flags and Emblems

On badges and flags, the Secretary of State will consult the Board and others, as required in the legislation, before reaching a decision. The aim is to secure consensus in the Board. If this is not achieved the Government will not propose a solution which would deter recruits or be objectionable to a substantial part of the community: the Government's bottom line will be the same as Patten's.

Oversight Commissioner

The Oversight Commissioner will be responsible for overseeing the implementation of changes in policing arrangements and structures recommended in the Patten Report. The Oversight Commissioner has already circulated a full report setting out the methodology by which he and his team will carry out their task. The Government has accepted the report. The Oversight Commissioner will monitor progress with implementation; will report at least three times a year, and will be able to draw attention to shortcomings in implementation and make recommendations. This could include recommendations for changes in the legislation if the Commissioner concluded that aspects of the Act were inhibiting the new beginning to policing as envisaged in the Good Friday Agreement.

Time-Limit for Complaints and References to Ombudsman

Under the Police Act 2000 the powers of the Ombudsman have been extended and the Government is ensuring that the office will be adequately staffed and resourced. The Ombudsman has unprecedented powers which will enable her to initiate investigations into individual complaints, and arising from them, draw attention to police practices and policies which raise difficulties. She may carry out research for this purpose. She will also have powers of retrospection. The

Government will make regulations under the Police Act extending the circumstances under which the Ombudsman may deal with complaints dating back more than two years.

In this context, the Ombudsman will be supplied by the Chief Constable and the Policing Board with such information and documents as she may require.

We referred previously to the substance of the draft Police Complaints Regulations, to be made under the 1998 Act as amended. Copies of the Regulations were made available during the passage of legislation. The regulations have yet to be finalised and are subject to further consideration with interested parties. A copy of the latest draft has already been provided.

Demilitarisation of buildings, vehicles etc

Patten made a series of recommendations on normalisation. These include making the appearance of police stations and of police vehicles less forbidding, a reduced role for the Army, closure of interrogation centres, the creation of a routinely unarmed police service, and the early phasing out of reliance on emergency legislation. There has already been progress in several of these areas, as set out in the draft Implementation Plan. We confirm that implementation of these recommendations will be subject to the scrutiny of the Oversight Commissioner.

Police Reserve

The Government is fully committed to phasing out the **Full Time Reserve** as soon as possible, taking account of the overall manpower situation in the light of the security situation. The process has, in effect, begun and numbers are decreasing. The strength of the Full Time Reserve has been reduced by over 600 and there has been no recruitment for three years. It is projected to fall by a further 700 over the next two years, producing an overall reduction of over 40 per cent. This takes no account of the non-renewal of contracts, which will be a further step. We want this process to start, if possible, once the first new recruits start operational service in early 2002. The timescale is inevitably bound up with some difficult contractual issues which require further discussion with the Police Federation. We also aim to initiate the recruitment of an enlarged **Part Time Reserve** this year. The aim would be to bring the service up to 2500 within three years of start up.

Special Branch and its support units

The Government and the Chief Constable have accepted all of the Patten recommendations in relation to Special Branch. The Chief Constable has announced his intention to bring Special Branch and the Crime Department under a single Assistant Chief Constable from 1 April. The Patten Report identifies 850 officers being attached to Special Branch. By March 2001 the Chief Constable expects to reduce this figure to around 765, a reduction of some ten per cent. The Chief Constable then aims, by September 2001, to amalgamate into the wider police service those units commonly referred to as support units (Patten recommendation 101). These units include support teams, including training, technical and air support units. This would by that stage have reduced Special Branch by over 40 per cent.

It is intended that the new tenure policy for the service will be finalised by September 2001. This would include an objective of five to seven years, with a maximum continuous period of the order of seven years for officers deployed in Special Branch.

Public order equipment

The Government has accepted and is implementing all the Patten recommendations in relation to Plastic Baton Rounds. The terms of reference of a research programme have been published. The conclusions of the first phase of the programme will also be published in the new few weeks. The next phase will involve preparation of research proposals. This area will be subject to scrutiny by the Oversight Commissioner.

Human rights offenders within the RUC

The Government agrees with the Patten Report (paragraph 5.19) that "bad apples" need to be dealt with. The Ombudsman now unprecedentedly wide powers to investigate complaints and individual cases provide an appropriate remedy. She has powers to initiate an investigation even if no specific complaint has been received, but where she believes that a criminal or disciplinary offence may have been committed under section 55 of the Police Act 1998. The regulations will provide for her to investigate cases arising before her office was established. There are just on 100 staff in her office. As already noted, the Government is committed to ensuring that her office is adequately resourced.

Text sent to Irish to
hand over to Sinn Fein on
24 Jan.

DRAFT

STATEMENT BY THE TWO GOVERNMENTS

In a joint statement on 5 May, the two Governments set out proposals for securing full implementation of the Good Friday Agreement, and committed themselves to the steps necessary to achieve that goal. Since then, substantial progress has been made, but outstanding difficulties remain, and we have been discussing with the pro-Agreement parties how these can be overcome.

In the light of these discussions, we now believe that there is a new understanding on the part of all parties about how the remaining issues can be resolved and the Agreement fully implemented.

As indicated in the May statement, the British Government will progressively take all the necessary steps to secure as early a return as possible to normal security arrangements in Northern Ireland, consistent with the level of threat. It is their intention to continue with this process until complete normalisation is restored in Northern Ireland. But it can only be on the basis of a continuing implementation of the Good Friday Agreement and the assessment of threat and danger to the community and people in Northern Ireland. Provided this threat is reduced, the British Government will carry out a progressive rolling programme reducing levels of troops and installations in Northern Ireland. Ultimately the normal state would mean the vacation, return or demolition of the great majority of Army bases, the demolition and vacation of all surveillance towers, no further Army presence in police stations and the use of helicopters only for training purposes.

The two Governments believe that two things are now essential: that all paramilitary groups engage fully and actively with the Independent International Commission on Decommissioning; and that the current restrictions on the operation of the North/South Ministerial Council be lifted. We call on those concerned to take the necessary steps.

Full and active re-engagement with the IICD will, as a first step, make it possible for the IICD to consider whether, as envisaged in our May statement, "there are any further proposals for decommissioning schemes which offer the Commission greater scope to proceed in more effective and satisfactory ways with the discharge of its basic mandate." The Governments would expect an early report

on this matter, with a view to further rapid progress being made on the issue of arms thereafter.

The British Government is fully committed to the new beginning in policing through the establishment of a policing service supported by and fully representative of both traditions and all sections of the community in Northern Ireland. It is [today] publishing an updated version of the Implementation Plan for the policing reforms, which addresses concerns expressed by the parties and others and of the development in greater detail of the Chief Constable's plans for implementation. [The two Governments welcome the fact that all the parties eligible to do so have now indicated that they are willing to nominate political members of the Policing Board.]

With the completion of the early release scheme, the two Governments recognise also that there is an issue to be addressed about supporters of organisations now on ceasefire against whom there are outstanding prosecutions, and in some cases, extradition proceedings, for offences committed before 10 April 1998. Such people would, if convicted, stand to benefit from the early release scheme. The Governments accept that, as a matter of policy, it would be a natural development of the scheme for such prosecutions not to be pursued, and will take such steps as are necessary in their jurisdictions to deal with this difficulty, so that those concerned are no longer pursued.

With a view to coordinating and monitoring the implementation of remaining aspects of the Agreement, the two Governments will continue to work closely together, and to consult the parties.

There is now an opportunity to restore the momentum behind the implementation of the Agreement, and to achieve the goal of a permanent peace and political stability. We urge all concerned to respond positively to this statement.

NON-LEGISLATIVE PROPOSALS

Plastic bullets

The Government will advance the research programme recommended by Patten to find an acceptable alternative to plastic baton rounds as rapidly as possible. In the meantime, the use of plastic baton rounds will be avoided as far as possible.

Powers of Ombudsman

The Government will make regulations under the Police Act extending the circumstances under which the Ombudsman may deal with complaints dating back more than two years, to cover cases which she considers grave or exceptional or which involve new evidence. In a case which has already been the subject of a complaint, the Ombudsman will be able to consider whether evidence about the adequacy of any earlier investigation constitutes new evidence.

Demilitarisation of buildings, vehicles etc

Implementation of these recommendations ^{will} be advanced as quickly as possible, subject to the security threat. The process will be subject to the scrutiny of the Oversight Commission.



10 DOWNING STREET
LONDON SW1A 2AA

File 128

SUBJECT
MASTER

Filed on:

THE PRIME MINISTER
Personal Minute

TO ALL CABINET MINISTERS

TACKLING ORGANISED CRIME IN NORTHERN IRELAND

During recent meetings in Belfast I have been struck by the degree of concern on the part of both the security forces and the various political parties about levels of smuggling in Northern Ireland.

As you may remember, the then Secretary of State for Northern Ireland announced the creation of a Task Force to tackle this issue in his Conference speech last September, when he announced Adam Ingram would be bringing together all the agencies involved in tackling organised crime in Northern Ireland in order to cut off their activities at source. I know John Reid warmly endorsed this initiative on his arrival in Belfast.

Could I stress the importance I attach personally to this work? We need to tackle organised crime wherever it rears its head. However, in Northern Ireland, the heavy involvement of paramilitaries in organised crime gives us a further incentive to do so – partly to cut off a lucrative source of funding for them but also to prevent their Mafia-type activities from undermining a responsible civic society.

R

Moreover, given the sensitive stage we have reached in negotiations on the peace process, I want to give every encouragement to those committed to the success of the Good Friday Agreement, on whichever side of the political divide they lie. Demonstrating our willingness to take action against organised crime will do that.

The Task Force has already achieved some impressive successes and I am conscious of the contribution a number of your departments have already been making to this work. It is important that we build on this good start so that we can make real inroads on the problem. Could all those with an interest ensure they continue to lend full and active support to the Task Force's efforts?

I am copying this minute to all Cabinet Ministers and to Sir Richard Wilson.

Tomy

12 February 2001

CONFIDENTIAL - PERSONAL



10 DOWNING STREET
LONDON SW1A 2AA

SUBJECT
MASTER

PRIME OF

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From the Private Secretary

12 February 2001

Dear Paul

TELEPHONE CONVERSATION WITH TAOISEACH

The Prime Minister spoke by telephone to the Taoiseach this afternoon.

The call began with a brief exchange about the aborted visit by the Taoiseach to Scotland. The Prime Minister apologised profusely for any embarrassment caused. The Taoiseach said he was not remotely worried. He had not opened his mouth on the subject and would not do so. He noted drily that people in Scotland had got themselves tied up in knots over this.

The Taoiseach said he had had a lively meeting with Sinn Fein on Saturday. Each side had insulted the other from a great height. But he thought they had done the business. Sinn Fein had raised a few valid points as well as a whole lot of froth. They had insisted they meant business. The Taoiseach had said if they really meant business they would need to wrap things up in a realistic way in their meeting with Irish officials today. The Irish team were on their way over to London this evening and would come with some last remaining points to clear up. These would be a few modest things (solely on policing), not the kitchen sink. He had not seen the list, but was confident it would be manageable. The gist of Sinn Fein's concerns was that they would end up hooked on participation only to find that some promised commitments did not materialise. Sinn Fein had confidence in the Prime Minister but were worried about the securocrats clawing things back. The Prime Minister said he would give Sinn Fein as much reassurance as possible (although in practice the success of the reforms would lie as much in their hands (in terms of encouraging recruitment) as ours).

The Taoiseach said there had been strong words in the meeting with Sinn Fein over a pre-election deadline for putting weapons beyond use. The Irish had

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been clear that this was a sine qua non. If Sinn Fein were not up for this, they were wasting everyone's time.

The Prime Minister said we needed to move very quickly. Subject to this evening's meeting with Irish officials, he was minded to go over to Belfast tomorrow. The Taoiseach said he would fall in behind the Prime Minister's judgment on the right moment to make the call. He was ready whenever. They would need to start meeting with the other parties soon.

The Taoiseach ended by saying that Dermot Gallagher's impression was of Adams now taking a tough line with his own people. He sensed Sinn Fein had moved across the line.

Comment

The Irish team are now not arriving in London till nearly midnight tonight. We will be meeting them first thing tomorrow morning (and not making a judgment until after that meeting as to whether to go over to Belfast).

I am copying this letter to Sir Ivor Roberts (Dublin).

Yours ever

Michael

MICHAEL TATHAM

Paul Priestly
NIO

NORTHERN IRELAND: TEXT

The British Government is aware of the concerns that have been expressed that the Government's legislation does not fully implement the letter and spirit of the Patten Report and deliver the new police service we all want. These concerns include, in particular, the tripartite arrangements for the accountability and the powers of the Policing Board, disqualification from independent membership of DPPs, the extension of the functions of the Belfast DPP Sub Groups and clarification of the name if required. We make it clear that [on the basis of the review] and as rapidly as possible after its report in [January/June 2002] the Government will amend legislation to remedy each of these and other concerns in keeping with Patten.



From: THE PRIVATE SECRETARY



John Sawers Esq
Private Secretary
10 Downing Street
London SW1A 2AA

cc Robert Ritchie
Lord Bassam
Sir David Omond
John Halliday
Ian Chisholm
Peter Wrench
Harry Carter
Sham. Chettrabarb
Pam Teare
Fiona Deane
Ed Owen
Joshua Russell

17 FEB 2000
22/47.
HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT
11 FEB 2000

Dear John,

COMPENSATION FOR MISCARRIAGE OF JUSTICE: NICHOLAS MULLEN

I am writing to let you know that the Home Secretary is minded to refuse an application for compensation for wrongful conviction from Nicholas Mullen. Mullen is a PIRA terrorist who was sentenced to 30 years' imprisonment in June 1990 for conspiracy to cause explosions. The Court of Appeal quashed his conviction in February 1999 because it found that the way he was brought to this country to stand trial constituted a serious abuse of process. However, Mullen's guilt was not at issue during the appeal. The Home Secretary would be extremely reluctant to pay compensation. The legal issues are complex and the Home Secretary has consulted the Attorney General and others. Given the grounds on which Mullen's conviction was quashed, we now believe there is a sound basis for refusing the application. However, such a decision might be successfully challenged in the courts.

2. In December 1988, an explosives and armaments cache was found in premises of which Mullen had arranged the rental. He was believed to be the facilitator of an intended bombing campaign in the UK by the IRA. Mullen flew to Zimbabwe on 20 December 1988, but was deported back to the UK and stood trial. On 8 June 1990, he was convicted of conspiracy to cause explosions likely to endanger life or cause serious injury to property, and was sentenced to 30 years' imprisonment. On 4 February 1999, following an out of time appeal, the Court of Appeal quashed Mullen's conviction.

3. In the course of the appeal hearing, Mullen did not dispute his guilt. The appeal turned, however, on the manner in which his return from Zimbabwe had been brought about. The Court of Appeal found that material that had been disclosed prior to the appeal showed that "the British authorities initiated and subsequently assisted in and procured the deportation of the Appellant by unlawful means". This was, in the Court's view, "a blatant and extremely serious failure to adhere to the rule of law with regard to the production of a defendant for prosecution in the English courts". The Court of Appeal found

that, by reason of this abuse of process, Mullen's prosecution and conviction were unlawful, and quashed his conviction. The Court said, however, that there was "no criticism of the trial judge or jury and no challenge to the propriety of the outcome of the trial itself".

4. Mullen has applied for compensation for his wrongful conviction. The Home Secretary has to consider this application first under section 133 of the Criminal Justice Act 1988, which provides for compensation to be paid whenever a conviction is reversed on an appeal out of time, on the ground that a new or newly discovered fact (the previous non-disclosure of which is not attributable to the person convicted) "shows beyond reasonable doubt that there has been a miscarriage of justice". When allowing an appeal, however, the Court of Appeal rarely refers in terms to a "miscarriage of justice": the issue on which it is required to focus is simply whether or not the conviction is safe. Consequently, for the purpose of determining whether there is a statutory entitlement to compensation under section 133, our usual policy is to accept that the late reversal of a conviction on the ground of new evidence is sufficient, of itself, to establish that there has been a miscarriage of justice.

5. There is no doubt that Mullen's conviction was quashed on an out of time appeal, on the ground of new evidence, the previous non-disclosure of which he was not responsible for. In this highly unusual case, however, the Court of Appeal found that the conviction was unsafe because the way Mullen had been produced in court was an abuse of process, but made clear that as far as the trial itself was concerned, Mullen was properly convicted. The Home Secretary has been advised that it is perfectly arguable that, in these circumstances, there has been no 'miscarriage of justice' for the purposes of section 133 of the 1988 Act. The point is anyway untested in the courts, and while we might lose a legal challenge to a refusal on this basis to pay compensation, the Home Secretary can properly look to the courts to make clear whether he is obliged to do so in this difficult and unusual case.

6. There is, however, a further complication. If someone does not have a statutory entitlement to compensation, we have to consider whether they qualify for an *ex gratia* payment, under the terms of a statement made by the then Home Secretary in 1985, and by which the Home Secretary has said he will continue to be bound. This says, in part, that compensation will be paid to someone who has spent a period in custody following a wrongful conviction if that resulted from "serious default" on the part of a public authority. In view of the terms in which the Court of Appeal criticised the involvement of the British authorities in Mullen's deportation from Zimbabwe, we conclude that we are on the face of it bound to regard his case as meeting this condition. The only way in which the Home Secretary could refuse to pay Mullen compensation under this scheme would be by explicitly departing from his stated policy in the exceptional circumstances of this case. The Attorney General has advised that there is some risk that a court would hold that such a refusal was unlawful on the grounds of irrationality, but the Home Secretary believes that this is a risk worth running. However, legal advice is also that before the Home Secretary

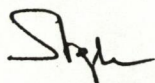
could refuse Mullen ex gratia compensation on this basis, he should be given the opportunity to make representations as to why there should be no departure from the stated policy in his case.

7. Subject to any responses to this letter, the Home Secretary intends that we should notify Mullen's solicitors on 18 February that his application has been refused under the statutory scheme, and that the Home Secretary is minded to refuse ex gratia compensation too, but inviting representations. In accordance with our usual handling of these applications, and given the low level of Parliamentary or public interest in this case (virtually confined to representations from Jeremy Corbyn MP, whom the Home Secretary has agreed to meet after he has made a decision) we do not propose to make any pro-active press or Parliamentary announcement about this decision. If, however, Mullen or his representatives publicise it, we would take the following lines in response:

- The Home Secretary has carefully considered Mr Mullen's application under the statutory scheme for compensation for wrongful conviction (section 133 of the Criminal Justice Act 1988). For compensation to be paid under this, part of the basis on which the court quashed the conviction must be that "beyond reasonable doubt that there has been a miscarriage of justice".
- The Court of Appeal found that Mr Mullen's conviction was unsafe because the way he was brought back to this country to stand trial constituted an abuse of process. But it also noted that Mr Mullen conceded that, having been brought back, he was properly convicted, and that there was before the court no question of his guilt. In view of this, the Home Secretary has decided that Mr Mullen is not eligible for compensation under the statutory scheme.
- The Home Secretary has also considered whether Mr Mullen should be awarded ex gratia compensation. Under his normal policy, someone who has spent a period in custody following a wrongful conviction that resulted from "serious default" on the part of a public authority – which Mr Mullen did – would get compensation. But, given the particular and exceptional basis on which the Court of Appeal quashed Mr Mullen's conviction, the Home Secretary is minded to conclude that it would be right to depart from his usual policy, and not to pay ex gratia compensation in this case.

8. I am copying this letter to Nick Perry (NIO), Claire Tracey (LCD), Stephen Parkinson (Law Officers' Department), and Mark Langdale and Sebastian Wood (Cabinet Office).

Yours,



STEPHEN HARRISON

CONFIDENTIAL - PERSONAL



10 DOWNING STREET
LONDON SW1A 2AA

file

SUBJECT
MASTER

From the Private Secretary

11 February 2001

Dear Paul,

TELEPHONE CONVERSATION WITH GERRY ADAMS

The Prime Minister spoke by telephone to Gerry Adams early this evening.

Adams said he was uncertain where things stood on "doability". The UK Government and Sinn Fein were coming at the problem from opposite ends. From Sinn Fein's point of view there was a need for more to be done, more transparently. But he agreed the process could not afford to collapse or go into reverse. He was not sure how things would pan out, given the current gap on policing and the enormity of what was expected from the IRA. This had been the hardest, slowest, longest, most protracted negotiation he had ever been involved in.

The Prime Minister said he was at the outer limit both of what he was able to do and what it was justifiable for him to do. The first tentative soundings we had taken of Trimble indicated that we faced a hell of a challenge selling the idea to him. The language on policing was very "in your face" to the Unionists. They were also having to stomach immediate public moves on demilitarisation for private deferred undertakings on decommissioning. We had moved substantially on Patten. There was upfront language on OTRs. We had now done everything we could. If the process went down, that would be tragic. But we had nothing more to give. We also all needed to be aware of the time pressure. There would be a real cost if a deal was not closed in the next 24 hours.

Adams doubted if that was achievable. He and his senior colleagues were not playing games or hanging tough for concessions. There were genuine problems with the unsatisfactory nature of the broad commitment to legislate on policing. But at some point someone would have to call it on a deal.

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The Prime Minister probed on Sinn Fein's remaining problems on policing. Adams said there were difficulties over the timescale. On the shortest possible scenario it would still take 16 months before new legislation. And experience showed how timescales tended to become stretched. The whole policing issue resonated at every level in the nationalist community. Even if all the substance was got right, the 16 month wait would be difficult. Adams complained that the UK was expecting concessions from Sinn Fein in return merely for the Government meeting its May 2000 commitments on OTRs and policing. The Prime Minister said that in a number of areas what Sinn Fein were demanding exceeded Patten. And we were progressing OTRs despite major political and legal problems that had not been apparent last May.

Adams said there was a lot still to tie down. There were lots of bits of paper flying around. Some of these might need amending in the light of Trimble's reaction. He would work through the issues with the Irish tomorrow but (as he had told the Taoiseach yesterday) he was not sure a deal was yet doable. The Prime Minister said Adams needed to keep his eye on the big picture. On policing, the key determinant of real change would not be the technical details on which Sinn Fein were fixated, but whether people joined and that would to a large measure be in Sinn Fein/SDLP hands. Sinn Fein also needed to bear in mind the need to handle unionism. The Secretary of State had run through elements of the deal in tentative terms with Trimble who was clearly very uneasy. Meeting all of Sinn Fein's current points would lose Trimble.

Adams said a final deal had to be sustainable on his side too. His people were a close, tightly-knit community clustered in small parts of Belfast and Derry. There would be a huge debate within this community which he would have to win if the current leadership was not to be banjaxed. It would be a disaster if parts of the IRA or Sinn Fein were to break away. At the Ard Comhairle yesterday it had been clear that the Dublin branch was paranoid about policing and would see nominations to the board as a sell-out. The South Armagh representative, by contrast, was in favour. Adams had to negotiate something sustainable within his community: that was why he was being persistent.

The Prime Minister said he recognised this and had accordingly gone to great lengths to offer an accommodating package which would work on Adams' side. Adams claimed that the movement over the last few months merely took things back to May. He sensed the Prime Minister had changed his mind about delivering on the May commitments at some point last summer. The Prime

Minister denied this. Sinn Fein seemed to discount the political heat the UK Government had taken on policing and disqualifications; and would have to take on demilitarisation (especially in the initial stages before corresponding moves on putting weapons beyond use) and OTRs.

Adams said he would see what emerged from tomorrow's meeting with the Irish. He had people on his side at work on the issues today. Sinn Fein and the UK Government should not get too frustrated with each other. We had to try and break a deal. We needed to start thinking for beyond May when the marching season would be upon us again. Already the number of pipe bomb attacks was alarming. The Prime Minister said that was why an early deal was so important - it would have a huge impact in stabilising the situation.

Yours ever,

E. M. Tatham

1.5. MICHAEL TATHAM

Paul Priestly
NIO

From: PS/Secretary of State
10 February 2001

cc: See Copy Distribution List

Mr Jeffrey - O

MEETING WITH DAVID TRIMBLE, 9 FEBRUARY

Summary

- Trimble controls his temper, but finds proposed deal "unbalanced".
- Need for clarity on process leading up to, and timescale for, decommissioning.
- Concern about proposed review of policing arrangements. Warnings about the name and badge.
- Concern about independent appointments to the Policing Board if Sir n. Fein and SDLP come on board.
- Action needed on the parades issue.

*✓ I think quite
realised they were
to be taken on MT.*

W.B.

C:JS

*the whole
thing. We must
ask for their
confidentiality*

Detail

2. The Secretary of State met with David Trimble in Castle Buildings yesterday evening to brief on the elements of the package under discussion in the current negotiations. David Trimble was accompanied by Sir Reg Empey, David Campbell and David Lavery. You and William Fittall were also present. David Trimble worked hard throughout the meeting to control his temper. The temperature only increased during discussion of some of the policing issues.

3. The Secretary of State explained that he had been asked by the Prime Minister to brief David Trimble. We did not yet have a deal, but the chances of

achieving one seemed reasonably good. When we had the final package, the Prime Minister would go through it in detail with David Trimble. The key issues under discussion were decommissioning and policing. If we could achieve the deal, the prize would be the IRA putting weapons verifiably and permanently beyond use, as well as Sinn Fein's participation on the Policing Board. These were steps of huge magnitude for the republican movement. The Government had said it would respond by taking a number of security normalisation measures – the removal of the super sanger at Newtownhamilton, the removal of two towers and the closure of Magherafelt Army base. In response, we were insisting that the Provisionals must re-engage with the Decommissioning Commission and reach agreement on the modalities for decommissioning, leading to actual decommissioning within a set timescale – which would be before the General Election.

4. The Secretary of State said Sinn Fein's participation on the Policing Board would constitute a historic step: republicans would be working in partnership to police Northern Ireland. If Sinn Fein were prepared to participate, then the SDLP would also have to come on board. But Sinn Fein had also made a number of demands – including a future review of policing arrangements which guaranteed amending legislation to meet their concerns. We had made clear that in any review we were not prepared to go beyond Patten. However, if Sinn Fein delivered on decommissioning and the Policing Board, we would address their concerns as well as those of others through a review.

5. The Secretary of State emphasised that the proposed package had not been signed off by either the Prime Minister or Sinn Fein. Gerry Adams was due to come back to the Prime Minister on Sunday. Our assessment was that he was likely to seek to chisel for further concessions. However, we were at the bottom line. You added that we had also indicated that we would be willing to take the necessary action to deal with outstanding cases on OTRs.

6. David Trimble sought confirmation that the timescale envisaged would involve actual decommissioning before the General Election and that in the run-up to it, de Chastelain would produce regular reports on IRA engagement and the progress of discussions. He emphasised that the problem for the UUP was that

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initially all that was on offer was IRA re-engagement. This was the only step which would be visible on the unionist side. Once again, we were talking about a private assurance on the timescale. You pointed out that it would be clearly understood that de Chastelain would produce regular reports on progress. David Trimble acknowledged that de Chastelain had an important role to play. His reports would have to use language which showed that a process was in train and indicated a timescale for actual decommissioning. Private assurances were not strong enough. It would be very difficult to manage the UUP without a clear timescale.

7. David Trimble asked what sanctions would be applied if the Provisionals failed to deliver. The UUP could not survive in these circumstances. You said that, if this happened, all bets would be off and HMG would not deliver on its side of the deal. David Trimble suggested that the initial IRA statement announcing their re-engagement with de Chastelain could make clear that they were doing so for a specific purpose.

8. Sir Reg Empey said the UUP had always been promised "jam tomorrow" by Sinn Fein. All that was visibly on offer on this occasion was IRA re-engagement with de Chastelain. The UUP would look like "utter prats" if they went for this package. They could not begin to advise their colleagues to support it. It did not provide a basis on which the UUP could go into the General Election. The Party could not afford to ship any more water. They had had nothing but "fog" for three years on decommissioning. They were now entitled to clarity and certainty. Sinn Fein were getting clear assurances which would be visible for their supporters. The elements of the deal which were for the UUP were "over the horizon". The Secretary of State said the need for clarity on IRA re-engagement, modalities and timescale had been pressed on Sinn Fein. David Trimble reiterated that, in the context of the General Election, the UUP would be ruined if the Provisionals did not deliver. Sir Reg Empey said Sinn Fein were being allowed to set their own timing while the UUP would be dependent on de Chastelain. The Party needed de Chastelain to specify a date. David Trimble agreed: de Chastelain needed to specify a date within the next month or two. Problems would also arise if Sinn Fein came forward with a methodology for decommissioning which did not meet the requirements of the Decommissioning Commission or the UUP.

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9. David Trimble asked what we proposed to do on policing. The Secretary of State said Sinn Fein had made a long list of demands but we had only offered commitments to amend the legislation in four areas:

- On the name, if concerns about the continued use of "Royal Ulster Constabulary" were borne out in practice.
- To extend the functions of the sub-groups of the Belfast DPPs.
- On the powers of the Policing Board, to remove the power to refuse inquiries which might prejudice the detection and prosecution of offenders.
- To remove the disqualification of former terrorists from independent membership of DPPs.

10. David Trimble asked whether Sinn Fein had raised the issue of fundraising and expenditure powers for DPPs. You said this had not been raised so far. David Trimble said Section 1 of the Police Act 2000 (dealing with the name) was part of a deal between HMG and the UUP. As far as he was concerned, Section 1 was "immutable". Growing heated and sitting forward, he warned that this was a deal breaker. Section 1 was part of the basis on which the UUP had agreed to proceed with the re-establishment of the devolved institutions. Attempts by HMG and the SDLP to add a definitional amendment to Section 1 had been rejected by the UUP during the passage of the Police Bill. This was a matter of his personal integrity. It was a deal which must be adhered to through "hell or high water". The Secretary of State said we had not given a commitment to change Section 1. The commitment was to remedy the situation by legislation if the name "Royal Ulster Constabulary" was used in practice. David Trimble reiterated his concern. The Secretary of State said he would take advice on what commitments had been given to the UUP on the name provision during the passage of the Bill. [Advice please: **Mr Masfield**].

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11. David Trimble asked what concessions had been given to the SDLP on policing issues. It was clear in the ensuing discussion that he already had a fairly clear picture of where matters stood with the SDLP.

12. The Secretary of State said that, on inquiries, the SDLP were looking at a draft text which he had offered. The SDLP had asked for a commitment to pass the papers on Finucane, Hamill and Nelson to an international judge to consider the case for initiating inquiries. HMG was seeking to persuade them to take a more flexible approach, which would keep open the possibility of inquiries, but not tie ourselves to this course. Once the current investigations and any resulting criminal proceedings had been dealt with, HMG would look at the case for inquiries with an open mind. David Trimble and Sir Reg Empey asked what we proposed to do about inquiries into issues of concern to unionists. They wanted an inquiry into allegations of Garda collusion with the IRA. Similarly, there was a case for an inquiry into allegations that the Irish Government had armed the IRA. The Secretary of State said we had already put the Irish on notice that these issues would be on the agenda at any negotiations.

13. David Trimble asked about Gough Holding Centre. The Secretary of State said we could not meet the SDLP's demand for closure of Gough by April 2001. He was prepared to include in the Implementation Plan either a commitment to a definite date later than April, or to say that the objective was to close Gough by April - even though our assessment was that closure was likely to take 6-8 weeks after end-April.

14. David Trimble asked about the Full-Time Reserve. The Secretary of State said he had taken the SDLP through the projections for reductions in police numbers and had explained the difficulties of giving commitments to clear start and end dates for disbanding the FTR. David Trimble agreed with this point but added that, before we started phasing out the FTR, we should revisit the severance deal which had been provided for such officers. Their interests had not been looked after by the Police Federation and they had been given a raw deal. The Secretary of State said he would look into this issue. [Advice please: Mr Lindsay].
Sir Reg Empey said the Chief Constable had given an undertaking at a recent

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meeting with the Police Authority that the FTR would not be "touched" before end-2002. [Advice please: Mr Masefield]. David Trimble asked whether we were going to go ahead with a "purely sectarian" recruitment policy for the PTR. You defended our approach. The Secretary of State said he would welcome advice on the issue. [Advice please: Mr Masefield].

15. David Trimble asked about the police badge and the flying of flags from police buildings. The Secretary of State said he intended to put both issues to the Policing Board. He wanted the Board to reach a consensus. If the Board was unable to do so, the issues would come back to him to determine and he would do so on a basis which would not deter recruitment from either side of the community. Growing heated again, David Trimble said this would mean that the Crown would be included in the badge - since its removal would be offensive to unionists. Patten had been "wrong and stupid" to make these recommendations. At least Peter Mandelson had "got this one right!" The Secretary of State said he had used exactly the same words as Peter Mandelson. A still heated David Trimble warned that HMG should not make a mistake on this issue: "there is a limit to how much shit the UUP can take!". Sir Reg Empey said this was part of a continuous erosion of the British identity which was "poisonous" for the UUP. The Secretary of State said he had inherited a position and was not a free agent. He felt caught between a rock and a hard place. He reiterated that he hoped the Policing Board would be able to reach a consensus. He was willing to provide designs for the Badge in order to enable the Board to do so - indeed, work was already in train. However, he could not lie to the UUP: he had chosen his words carefully. The SDLP knew that in the event of the Board being unable to reach a compromise, Patten's recommendation was the default position. Nevertheless, he would welcome the opportunity to go through these issues in detail with David Trimble once he had taken advice on how we had reached the current position. [Advice please: Mr Masefield].

16. David Trimble asked about the changes to Special Branch. The Secretary of State explained what would happen on Special Branch numbers and the intention to bring SB and CID under a single ACC by April. David Trimble was worried about these changes: the threat from terrorism was increasing, private armies were still being maintained, there was continuing terrorist activity by organisations allegedly

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of ceasefire – including PIRA – yet HMG intended to reduce police capabilities. The Secretary of State said we had been through these issues with the SDLP and had pointed out the realities. HMG would not make these changes unless they were acceptable to the Chief Constable. We were determined to ensure that the police had sufficient capability to deal with the security problem.

17. David Trimble put down a marker about continuing PIRA involvement in terrorism. The UUP had not acted so far because they did not have sufficient evidence to convince public opinion outside Northern Ireland. However, if the activity continued, the evidence would inevitably come and the UUP would act immediately to exclude Sinn Fein from the Northern Ireland Executive, failing which the UUP would withdraw. The UUP were only prepared to tolerate having “murderers” in the administration on the basis that the Provisionals were involved in a transition away from violence. The UUP was not comfortable with the idea that HMG and the RUC were “studiously turning a blind eye” towards PIRA’s continuing involvement in terrorism.

18. David Trimble said he was also concerned about the implications of the proposed review of policing on the undertaking which had been given to the UUP that policing would be devolved at the same time as criminal justice. He wanted to see devolution taken forward as part of the implementation of the Criminal Justice Review. He had been led to believe that implementation would begin after the General Election and that devolution would happen within 18 months. The Secretary of State said he would take advice on this issue. **[Advice please: Mr Masefield].**

19. David Trimble expressed concern about the appointment of independent members to the Policing Board by the Secretary of State. He made it clear that he wanted to be consulted in detail on such appointments. If the SDLP and Sinn Fein were prepared to participate on the Board, the “character” of the independent appointees would become crucial. He did not want to see the “usual suspects” being appointed. If the NIO was left to its own devices, it would produce what it considered a balanced list of Protestants and Catholics for the Secretary of State. In practice, the Catholics would be hard political characters from the extreme of the

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SUP or "fellow travellers of the IRA". On the Protestant side, the Secretary of State would be offered "pliable non-unionists". This had happened in the case of the Human Rights Commission. We needed to ensure that the independent appointments to the Board were properly balanced. We already had a situation where the Oversight Commissioner and the Police Ombudsman were both Roman Catholics.

20. Sir Reg Empey said the balance-sheet described by the Secretary of State was tipped heavily against the UUP. The proposed changes on policing would be a "killer" for the UUP. Unpicking the Police Act would cause damage to the Party. It was also the case that all the proposed changes for nationalists and republicans were clear and visible, while the only gain for the UUP - on decommissioning - was "under the carpet". David Trimble added that we were also proposing to take away the minor concessions on the police name and badge which had been given to the UUP as a means of maintaining their self-respect.

21. The Secretary of State reminded the UUP of the prize which was on offer: a commitment by the IRA to actual decommissioning and support by republicans for future policing arrangements. Sir Reg Empey reiterated that if the commitments on decommissioning were left vague, the UUP would be unable to "get out of the starting blocks".

22. David Trimble said the UUP also needed the parades issue to be dealt with. The Currin initiative was going nowhere. We needed to resolve the Drumcree situation, which was a running sore. The Secretary of State agreed and said that he would welcome a discussion with David Trimble about how to do so. He invited David Trimble to contact him after the UUP Executive meeting to go over a number of these issues again at Hillsborough - including the name and badge, FTR and PTR, devolution of policing, appointments to the Policing Board and Drumcree.

22. Finally, the Secretary of State asked David Trimble whether he would get through the Executive meeting the following day. David Trimble said he would survive, but the key question was how many "hits" he would take in the process.

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David Campbell said his Party leader might not want to get through the Executive if this was the package he had to sell to the Party.

Signed

P G PRIESTLY

PS/Secretary of State

(B) 28110

(L) 6462

cc: PS/Secretary of State (B&L) - O
PS/Mr Ingram (B&L) - O
PS/Mr Howarth (B&L) - O
PS/Mr Pilling (B&L) - O
Mr Watkins - O
Mr Alston - O
Mr Fittall - O
Mr Kelly - O
Miss O'Mara - O
Mr Maccabe - O
Ms Bharucha - O
Mr Crawford - O
Mr Masefield - O
Mr Waterworth - O
Sir Ivor Roberts, HMA Dublin - O
Mr Powell, No. 10 - O

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TOTAL P.10

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10 DOWNING STREET
LONDON SW1A 2AA

file

SUBJECT
MASTER

From the Private Secretary

10 February 2001

Dear Paul

TELEPHONE CONVERSATION WITH THE TAOISEACH

The Prime Minister spoke briefly to the Taoiseach this morning.

The Prime Minister said it was essential that Sinn Fein closed on a deal. Their current stalling was freaking out Trimble (who had still to be taken through the possible deal in detail). The Prime Minister wanted to go over to Belfast on Monday afternoon and Tuesday but this would only work if Sinn Fein closed beforehand.

The Taoiseach said he had asked to see Sinn Fein after their Executive today in Dublin. The meeting had not been confirmed but he expected it to happen. He would be telling Sinn Fein in clear terms that they should close on a deal. They had a good package, which the Irish were strongly recommending to them. He recognised that the Prime Minister had moved as far as he could. He would emphasise to Sinn Fein that Monday/Tuesday had been set aside - after that, the opportunity looked like slipping.

The Taoiseach said he could not understand what Sinn Fein were at. There were no real points of substance left. Dermot Gallagher and Martin Mansergh had probed hard on whether serious issues underlay Sinn Fein's position without getting any enlightening response. The best guess was that this was still all about Sinn Fein managing their own people.

The Prime Minister said the best form of pressure on Sinn Fein was for them to feel they were in danger of being isolated from the Irish Government, the SDLP etc and on the brink of being saddled with the blame for a breakdown. The Taoiseach said Dermot Gallagher had made that point to them. The Prime Minister said the Taoiseach should repeat the message in his meeting this afternoon.

CONFIDENTIAL - PERSONAL

The Prime Minister left the Taoiseach with the thought that if Sinn Fein were not up for this deal, thought would need to be given soon to preparing the best exit strategy.

The Taoiseach indicated that he might contact the Prime Minister later this weekend with feedback on his meeting with Sinn Fein.

Yours ever

Nick Mottles

for MICHAEL TATHAM

Paul Priestly
Northern Ireland Office

CONFIDENTIAL and PERSONAL

FROM: BILL JEFFREY
Political Director
10 February 2001

~~FJB~~
C:JS
MT

SECRETARY OF STATE(L&B)

cc PS/Secretary of State (B&L) - O
PS/Mr Ingram (B&L) - O
Mr Pilling (B&L) O
Mr Watkins - O
Mr Fittall - O
Mr Kelly - O
Mr Powell, No.10 - F

TRIMBLE MEETING

You asked me for half a dozen big picture political conclusions from the Trimble meeting.

- Public sequencing is vital. We have to pin down the de Chastelain reports - when they will happen and what they will say.
- The concern about being trapped in the Election campaign is a real one. It points towards tying Trimble into the private understanding if we can - ? Him to speak to Adams.
- Patten symbolic issues are still a raw nerve, but he was probably grandstanding and using the change of Secretary of State to try to shift the dynamic of the argument. He probably knows which way things are going. But there needs to be a private discussion with him about how to manage the issue with least damage to the UUP.
- He can be bought on the full-time reserve, if we can afford the price.
- He doesn't care that much about OTRs or security normalisation, although that won't stop him criticising us publicly.

CONFIDENTIAL and PERSONAL

> Hi signal about the impossibility of his position if the IRA are proved do have
done something was for real.

[Signed]

BILL JEFFREY
11 Millbank ☎ 6447

PM

file

message from Jonathan;

The talks finished at 1.30 this morning with no agreement but the Lib & other evidence suggest we will get an agreement, but the problem is bringing it to closure. Bertie will speak to Adams this morning.

Jonathan is now on a plane on his way back.

Rachael

9/2



10 DOWNING STREET
LONDON SW1A 2AA

SUBJECT
MASTER

From the Private Secretary

9 February 2001

TRIMBLE

Dear Paul

TELEPHONE CONVERSATION WITH TRIMBLE

The Prime Minister spoke by telephone to Trimble shortly after 0700 this morning (I have already given you an oral read-out).

The Prime Minister said Jonathan Powell had been engaged in talks until late into the night. The deal was not yet closed and Sinn Fein were still prodding and pressing. But we thought we were reasonably close and were on balance hopeful of getting something. The Prime Minister said we had been clear with Sinn Fein that any deal would need to be run past Trimble (he repeated this point a couple of times in the conversation). Trimble would have ample opportunity to comment. We did not think there were any showstoppers in the deal but there were some difficult areas (as much for us as for him). We would need to take him through the issue of a review on Patten implementation in some detail. On the working assumption that we would be able to close a deal soon, the Prime Minister said he might aim to come over to Belfast on Monday afternoon to put it together. Since he would be in France all of today, he would ask the Secretary of State to talk Trimble through what had been achieved with Sinn Fein. If necessary, Trimble could then contact the Prime Minister by phone over the weekend. Trimble said he had very limited time today but he would make contact with the Secretary of State and aim for a conversation around lunchtime, just before the party officers meeting.

The Prime Minister said it would be important to manage the weekend carefully. Trimble said he would be sending off the letters to McGuinness and De Brun this morning. These letters basically just restated the current position. He was not clear what further steps he might need to take. He would have a better feel for handling Saturday after his meeting with the party officers (at which Smyth and Donaldson would be present).

The Prime Minister apologised for repeatedly being unable to give Trimble much detail. That was the reality of the negotiations. We sensed that Sinn Fein were nervous about the enormity of what they were close to signing up to on policing. That, more than decommissioning, was what they were finding hardest to swallow. Trimble commented that they had done less to prepare their people on policing. The Prime Minister said it had become increasingly clear that to get the SDLP constructively engaged on policing it would be necessary to have Sinn Fein on board as well.

Comment

The level of detail in which Trimble should be briefed at this stage will obviously be a sensitive judgment. Jonathan Powell will contact the Secretary of State later this morning to discuss this point.

Yours ever

Signed : Michael Tatham
09/02/2001

MICHAEL TATHAM

Paul Priestly
NIO

CONFIDENTIAL and PERSONAL

FROM: BILL JEFFREY
Political Director
9 February 2001
BJ/MR/702(L)

✓ JP
cc: MT
JS

SECRETARY OF STATE(L&B)

cc See distribution below

MEETING WITH DAVID TRIMBLE

This note contains a brief report on yesterday's events with some lines for this afternoon's meeting with David Trimble and his colleagues.

Yesterday's discussions

2. We emerged from yesterday with two key documents:

- The crucial text committing the Government to legislate after the review of policing at the 12-month point, to meet Sinn Féin concerns on accountability, DPPs and (if required) the name (at A);
- a somewhat amended version of the note on other issues which we had handed Sinn Féin earlier in the day, and which we spent most of the day discussing (at B).

We also gave Sinn Féin some relevant extracts from the Patten Implementation Plan, but succeeded in avoiding discussing these in detail, although we promised a discussion at some later stage.

3. In the course of the discussion of what became the text at B, Jonathan undertook to discuss with the Prime Minister without commitment, three issues which had come up, to which Sinn Féin appeared to attach importance:

- Plastic baton rounds, where they were looking for a commitment to take them out of use (while if necessary retaining stockpiles for emergencies), or at least some clearer indication of the timescale for the research;

- 1 -

CONFIDENTIAL and PERSONAL

BJ/MR/702(L)-9.2.2001

- retrospective Ombudsman inquiries – on which they wanted the forthcoming regulations to allow inquiries relating to events over 2 years ago, where there had been an earlier complaint which had been inadequately investigated (our intention is to rule out any complaint which is substantially the same as one previously received);

- the part-time Reserve where they argued for a more rapid build up to 2500 within a year rather than 3 years (we explained the practical difficulties).

In each case, we made it clear that we could not offer any change in the language, but that Ministers would think about the points they had put to us. I am commissioning separate advice on this from Robin Masefield.

4. Adams also pressed us for more details on how we would legislate on the tripartite relationship and the Policing Board, but we refused, saying that this would have to be settled in the review.

5. The text at A – which omits any qualifying phrase like “on the basis of the review” or “if these concerns are borne out in practice” – was, as you know, given to Sinn Féin on the Prime Minister’s instructions. Jonathan explained to Adams at the beginning that it was very difficult for us and could well be intolerable for Trimble; that it was being offered on the basis that it would clinch a deal that day and enable Sinn Féin to deliver everything that had been asked of them at Chequers; and that it was subject to Trimble’s reactions. In the event, at about 1am this morning after much to-ing and fro-ing, Adams told us that we did not have agreement. We had refused to move on a number of points or to offer the degree of clarity they required. They needed to reflect overnight. We should do so as well. I asked whether he would give us an answer today. He said that he could tell us today whether there was agreement or not, but could not guarantee that the matter would be settled. There was still a considerable gap, and he did not think that he could sell what we had offered on Patten to the people he had to sell it to.

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6. The Irish were pretty downcast, but insisted afterwards that they thought Adams was just creating some space for himself, as he often does at moments like this, and that the deal was still on. The Taoiseach was speaking to Adams this morning.

Other elements of the deal

7. Although I don't suggest for a moment that you go into great detail, far less hand over papers to Trimble, you should be reminded of the rest of the deal. The key texts are attached. It is worth both of us having them all in the same place. They cover:

- our requirements on decommissioning (C);
- signing up for the Policing Board (D);
- security and normalisation (E);
- OTRs (F);
- setting up of a private Implementation Group with us, the Irish Government and Sinn Féin (G).

Meeting with Trimble

8. Handling the meeting with Trimble presents a dilemma. I gather Jonathan Powell's steer is that you should give away as little as possible, majoring on decommissioning and not going into details, particularly on policing or security normalisation. I think this is right, in the sense that it would be disastrous if you so excited Trimble about the unwelcome aspects of the deal as to cause him to react even more violently tomorrow than he otherwise would. We have to steer a difficult course between giving him enough to feel that he is being kept in touch and encouraged that a big deal may well be on, without blowing him out of the water on the other side.

9. On the other hand, Trimble will come bristling with questions, and if you refuse to give him any real sense of what is going on, you will just stroke his suspicions.

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10. We can discuss this before the meeting, but I think it points to a presentation on broadly the following lines:

- discussions still going on with Sinn Féin, but seem to be quite close to a breakthrough - Sinn Féin still reflecting on their position, so we can't be sure, but the signs are moderately good;
- basic elements of a deal would be as you have known for some time;
- the IRA would re-engage with de Chastelain, agree modalities and put some weapons beyond use before the election in a manner agreed by de Chastelain;
- Sinn Féin would nominate to the Policing Board, which would undoubtedly enable the SDLP to do so, and thereby reduce the damaging sense that - after all the pain of Patten - nationalists are still not satisfied;
- in return, we would give them assurances that we would do what was necessary to resolve the problem of OTRs; several military installations would be removed; and we would promised to review the Patten legislation 12-months down the track, with a view to legislating if necessary to meet some of their concerns;
- two points to bear in mind: the military installations are ones that the Chief Constable and the GOC would be content to see go provided Sinn Féin and the IRA do as we are asking - if they don't, there is no deal - and demolition would not be completed until the IRA had delivered;
- and on policing we have made it clear that we will not do anything that goes beyond Patten, despite a good deal of pressure from Sinn Féin to do so;

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- I can't go into more detail than that now, but it does mean that there is a good chance that we can get things moving at the beginning of next week, and make the kind of breakthrough that would, over time, put you in a much stronger political position. We don't want to set anything in motion for next week without being reasonably confident that it would lead to the outcome we want;

- it follows that – while I completely understand the problems and know you are going to have to say something tomorrow to keep up the pressure on Sinn Féin – the cooler you can keep it the better. It would be a pity, to say the least, if you gave them an excuse for backing off when they are now so close.

[Signed]

BILL JEFFREY
11 Millbank ☎ 6447

Distribution List:

Mr Ingram(L&B)
Mr Pilling
Mr Watkins
Mr Alston
Mr Fittall
Mr Masfield
Mr Powell No.10-FAX

The British Government is aware of the concerns that have been expressed that the Government's legislation does not fully implement the letter and spirit of the Patten report and deliver the new police service we all want. These concerns include, in particular, the tripartite arrangements for accountability and the powers of the Policing Board, disqualification from independent membership of DPPs, extension of the functions of the Belfast DPP subgroups and clarification of the name if required. We make it clear that as rapidly as possible after the conclusion of the review in [June 2002], the Government will amend legislation to remedy each of these and other concerns in keeping with Patten.

[Handed to Sinn Féin 4.15pm on 8 February 2001]

The position on the specific points which Sinn Féin have raised is as follows:

New Oath

The Act sets out the need for all serving and new police officers to carry out their duties in accordance with the terms of the new Oath thus putting all officers on the same footing. In addition the code of ethics will be binding on all officers and will be reflected in regulations relating to conduct and discipline. In preparing the new code the Chief Constable and Board are required to have regard to the terms of the new Oath.

Badges, Flags and Emblems

On badges and flags, the Secretary of State will consult the Board and others, as required in the legislation, before reaching a decision. The aim is to secure consensus in the Board. If this is not achieved the Government will not propose a solution which would deter recruits or be objectionable to a substantial part of the community: the Government's bottom line will be the same as Patten's.

Oversight Commissioner

The Oversight Commissioner will be responsible for overseeing the implementation of changes in policing arrangements and structures recommended in the Patten Report. The Oversight Commissioner has already circulated a full report setting out the methodology by which he and his team will carry out their task. The Government has accepted the report. The Oversight Commissioner will monitor progress with implementation; will report at least three times a year; and will be able to draw attention to shortcomings in implementation and make recommendations. This could include recommendations for changes in the legislation if the Commissioner concluded that aspects of the Act were inhibiting the new beginning to policing as envisaged in the Good Friday Agreement.

Time-limit for Complaints and References to Ombudsman

Under the Police Act 2000 the powers of the Ombudsman have been extended and the Government is ensuring that the office will be adequately staffed and resourced. The Ombudsman has unprecedented powers which will enable her to initiate investigations into individual complaints, and arising from them, draw attention to police practices and policies which raise difficulties. She may carry out research for this purpose. She will also have powers of retrospection. The Government will make regulations under the Police Act extending the circumstances under which the Ombudsman may deal with complaints dating back more than two years.

In this context, the Ombudsman will be supplied by the Chief Constable and the Policing Board with such information and documents as she may require.

We referred previously to the substance of the draft Police Complaints Regulations, to be made under the 1998 Act as amended. Copies of the Regulations were made available during the passage of legislation. The regulations have yet to be finalised and are subject to further consideration with interested parties. A copy of the latest draft has already been provided.

Demilitarisation of buildings, vehicles etc

Patten made a series of recommendations on normalisation. These include making the appearance of police stations and of police vehicles less forbidding, a reduced role for the Army, closure of interrogation centres, the creation of a routinely unarmed police service, and the early phasing out of reliance on emergency legislation. There has already been progress in several of these areas, as set out in the draft Implementation Plan. We confirm that implementation of these recommendations will be subject to the scrutiny of the Oversight Commissioner.

Police Reserve

The Government is fully committed to phasing out the **Full Time Reserve** as soon as possible, taking account of the overall manpower situation in the light of the security situation. The process has, in effect, begun and numbers are decreasing. The strength of the Full-Time Reserve has been reduced by over 600 and there has been no recruitment for three years. It is projected to fall by a further 700 over the next 2 years, producing an overall reduction of over 40%. This takes no account of the non-renewal of contracts, which will be a further step. We want this process to start, if possible, once the first new recruits start operational service in early 2002. The timescale is inevitably bound up with some difficult contractual issues which require further discussion with the Police Federation. We also aim to initiate the recruitment of an enlarged **Part-Time Reserve** this year. The aim would be to bring the service up to 2,500 within three years of start up.

Special Branch and its support units

The Government and the Chief Constable have accepted all of the Patten recommendations in relation to Special Branch. The Chief Constable has announced his intention to bring Special Branch and the Crime Department under a single Assistant Chief Constable from 1 April. The Patten Report identifies 850 officers being attached to Special Branch. By March 2001 the Chief Constable expects to reduce this figure to around 765, a reduction of some 10%. The Chief Constable then aims, by

September 2001, to amalgamate into the wider police service those units commonly referred to as support units (Patten recommendation 101). These units include support teams, including training, technical and air support units. This would by that stage have reduced Special Branch by over 40%.

It is intended that the new tenure policy for the service will be finalised by September 2001. This would include an objective of five to seven years, with a maximum continuous period of the order of seven years for officers deployed in Special Branch.

Public order equipment

The Government has accepted and is implementing all the Patten recommendations in relation to Plastic Baton Rounds. The terms of reference of a research programme have been published. The conclusions of the first phase of the programme will also be published in the next few weeks. The next phase will involve preparation of research proposals. This area will be subject to scrutiny by the Oversight Commissioner.

Human rights offenders within the RUC

The Government agrees with the Patten report (para 5.19) that "bad apples" need to be dealt with. The Ombudsman now unprecedently wide powers to investigate complaints and individual cases provide an appropriate remedy. She has powers to initiate an investigation even if no specific complaint has been received, but where she believes that a criminal or disciplinary offence may have been committed under section 55 of the Police Act 1998. The regulations will provide for her to investigate cases arising before her office was established. There are just on 100 staff in her office. As already noted, the Government is committed to ensuring that her office is adequately resourced.

STEPS TO PUTTING WEAPONS BEYOND USE

- Statement by IRA announcing re-engagement with IICD for the purpose of agreeing how weapons will be put completely and verifiably beyond use. IICD report that re-engagement has taken place and that these discussions are under way.

- IICD announces that agreement reached on how weapons to be put beyond use.

- IICD report that weapons put beyond use in the manner agreed with the IICD.

- Private undertaking to the Prime Minister on the timetable on which all three steps will take place, with the first putting of weapons beyond use by Easter.

Policing

- Sinn Fein and SDLP to nominate political members to the Policing Board by end January for the purpose of making preparations for the assumption of its powers by the Policing Board, including advising the Secretary of State on the new service's badge and flag-flying policy.

E

The Government recognises the difficulty in respect of those people against whom there are outstanding prosecutions for offences committed before 10 April 1998. At present, they face the possibility of extradition or prosecution even though the offences if proven were committed before the key date for the early release scheme under the GFA. The Government is committed to dealing with this difficulty as soon as possible, so that those who, if they were convicted, would be eligible under the early release scheme, are no longer pursued.

Further steps in normalisation will be taken:

- Demolition of the supersangar at Newtownhamilton police station adjacent to helicopter landing site (grid reference 93102780).
[+ Magherafelt army base]
- Demolition of tower on Sturgan Mountain (grid reference 01622562, 4.5km SW of Bessbrook, 2.3km WNW of Camlough) and one of two towers on Camlough Mountain (grid reference 04942509, 3.5km south of Bessbrook, 2km SE of Camlough).

The British Government repeats the assurance on normalisation given on 5 May. It is our intention to continue with this process until complete normalisation is restored in Northern Ireland. But it can only be on the basis of a continuing implementation of the Good Friday Agreement and the assessment of threat and danger to the community and people in Northern Ireland. Provided this threat is reduced, we will carry out a progressive rolling programme reducing levels of troops and installations in Northern Ireland. Ultimately, the "normal" state of Northern Ireland would mean the following:

The following locations would have been vacated, returned or demolished:

(a) Army Bases. The Army would move out of the following bases:

- Bessbrook
- Dungannon
- Raithfriland
- Clogher

- 2 -

- Clooney Base
- Ebrington Bks
- Magherafelt
- Grosvenor Bks
- Coleraine (Laurel Hill House)
- Girdwood Park
- Moscow Camp and Airport Jetty
- Military Hospital
- Malone Road
- Steeple Bks

The evacuation of some of these locations, such as Ebrington Barracks, for practical reasons, may take some time to complete.

- (b) Surveillance Towers. All surveillance towers would be demolished and vacated.
- (c) Joint Military/Police Locations. No further army presence in police stations.

All helicopter use would be for training.

There would be a number of overseas deployments and training opportunities, which would reduce the size of the garrison in situ at certain times.

Most training within Northern Ireland would be focused in Magilligan and Ballykinler Training Areas.

DRAFT**STATEMENT BY THE CHIEF CONSTABLE**

The Chief Constable today announced that he had conducted an assessment of the overall security threat and had concluded, in consultation with the GOC, that, notwithstanding a significant ongoing threat by the dissidents, today's events represent a real lowering of the overall threat. This, he said, assuming that all the commitments given today are honoured, makes appropriate the following steps which would be taken as soon as logistically possible:

- demolition of the supersangar at Newtonhamilton Police Station adjacent to the helicopter landing site;
- demolition of Magherafelt army base;
- demolition of the observation tower on Sturgan Mountain and one of the observation towers on Camlough Mountain.

G

IMPLEMENTATION GROUP

Creation of an informal Implementation Group; to comprise senior officials from Irish Government and British Government.

Remit:

To meet privately to liaise and exchange information on an ongoing basis, and monitor the implementation of commitments made, including on policing, security normalisation, OTRs and the issue of arms.

To report progress and identify outstanding commitments.

To agree, where possible, actions and remedies to meet outstanding commitments and report differences to Ministers.

To meet fortnightly and more regularly as required.

To report to the British Prime Minister and An Taoiseach, not later than 72 hours after each meeting.

Representatives of Sinn Fein to be involved in meetings.

A dedicated representative from the two Governments and Sinn Fein to liaise and exchange information on an ongoing basis, between meetings.

RESTRICTED
IRELAND: NEW LEADER OF FINE GAEL
From: DUBLIN

TO IMMEDIATE FCO
TELNO 35
OF 091624Z FEBRUARY 01
INFO PRIORITY BIS NEW YORK, BOSTON, CABINET OFFICE, EU POSTS
INFO PRIORITY NIO BELFAST, NIO LONDON, WASHINGTON

NIO(LONDON) PLEASE PASS TO PS/SOSNI
FCO PLEASE PASS TO NO 10
MY TELNO 26

SUMMARY

- 1. Noonan wins the Fine Gael leadership battle.

DETAIL

2. As predicted, Michael Noonan was elected as the new leader of Fine Gael on 9 February, defeating his main rival, Enda Kenny, by 44 to 28 votes. The two other candidates, Bernard Allen and Jim Mitchell, withdrew before the vote. After being elected Noonan immediately announced that he was appointing Mitchell as his deputy.

3. Other than a shift towards a more pro-nationalist stance on Northern Ireland (see TUR) Noonan has not so far signalled any major shift in Fine Gael policy. But he has said that his party will stop accepting corporate donations and that his top priority as Taoiseach would be to improve the health service.

COMMENT

4. In selecting Noonan (age 57) Fine Gael have gone for proven Ministerial experience, combined with a robust and aggressive parliamentary style, rather than Kenny's comparative youth and greater charm. Fianna Fail would have preferred a Kenny victory: Noonan's track record indicates that he has both the ability and persistence to score body blows in debate with the Taoiseach.

5. Noonan's immediate task is to unite his Party and to prepare quickly for the next election, which is 18 months away at most. Mitchell, as deputy leader, is popular with the public, especially in the Dublin area where most Dail seats are to be won. But while described as the QUOTE Dream Team UNQUOTE, the Noonan/Mitchell partnership will face a major uphill struggle to turn the Party's fortunes around against a Government which remains popular in light of Ireland's strong economic performance. Noonan may only have one chance. The Party will measure his performance quite simply: success will be Noonan as the next Taoiseach in a Fine Gael led Government. Anything else could quickly lead to a further challenge for the party leadership.

- 6. Revised LPRs on Noonan and Mitchell to follow.

ROBERTS

Sent by DUBLIN on 09-02-2001 16:24
Received by No10 on 09-02-2001 16:54

Prime Minister

file





NORTHERN IRELAND OFFICE
11 MILLBANK
LONDON
SW1P 4QE

Michael Tatham Esq
PS/ Prime Minister
10 Downing Street
London
SW1A 2AA

9 February 2001

Dear Michael

Mr Gerry Adams wrote to the Prime Minister on 10 January about the death of Mr Francisco Notarantonio and the allegations of collusion surrounding it. As with a number of such cases where there are allegations of collusion, Mr Adams calls for the establishment of a full public inquiry into this death as well as an internationally based inquiry into the role of the Force Research Unit (FRU).

Mr Notarantonio, a 66 year old black-cab driver, was killed by loyalist gunmen who broke into his house in 1987 and shot him dead as he lay in bed. Mr Notarantonio, who had been a personal friend of Gerry Adams' father was a member of the IRA in the 1940s and had been interned in the 1970s. It has been alleged in a number of newspaper articles that members of the FRU passed Mr Notarantonio's details to the high profile army agent Brian Nelson in order to deflect a planned attack on a highly placed IRA informer. The Secretary of State for Defence was granted an injunction against the Sunday People in September last year to stop it publishing further articles concerning the Army's former agent handling in Northern Ireland and about this case in particular. The MOD has assessed the disclosure of this information as likely to put at least one life at serious risk. The FRU has also been central to allegations of collusion in the Patrick Finucane case.





Correspondence with the Department of the Director of Public Prosecutions in Northern Ireland has revealed that, as part of the first Stevens Inquiry, information in relation to this murder was passed to the Director of Public Prosecutions. There was, however, insufficient material to warrant prosecutions. Although Stevens is not investigating the actual murder in his current re-investigation, the allegations of collusion and involvement of the FRU in this case do fall within his remit.

I attach a draft letter for the Prime Minister's signature which responds both to the letter he received as well as an identical letter that was sent by Gerry Adams to the Secretary of State. It does not use the more forward language on inquiries which we have been working up following discussions with the SDLP.

Yours ever
Kirsten McFarlane
KIRSTEN MCFARLANE



DRAFT FOR SIGNATURE BY PRIME MINISTER

Gerry Adams MP, MLA
Sinn Féin President
53 Falls Road
Belfast
BT12 4PD

Thank you for your letter of 10 January concerning the murder of Francisco Notarantonio and also the copy which you addressed to Peter Mandelson.

I am aware that there have been allegations of collusion made in this case, and in particular that the Force Research Unit was in some way involved. I take these allegations extremely seriously. They must be fully and fairly investigated and all necessary steps must be taken to bring those responsible to justice.

Sir John Stevens is currently conducting an inquiry into the circumstances surrounding the murder of Patrick Finucane. The terms of reference of this inquiry also cover the allegations of collusion in other murders, such as that of Mr Notarantonio.

Sir John is one of the most experienced police officers in the country and he and his team have my full support in seeking to get to the bottom of these disturbing and complex events. It would be wrong to do anything which risked jeopardising the prospect of this investigation getting at the truth and bringing those responsible for the Finucane and Notarantonio murders to justice. Reaching a decision now to establish a public inquiry would undoubtedly do so.



INVESTOR IN PEOPLE

RESTRICTED

**FROM: ROBIN MASEFIELD
HEAD OF PATTEN ACTION TEAM
9 FEBRUARY 2001**

JPO
cc: JS
MT
Press

**cc: PS/Secretary of State (B&L)
PS/Mr Ingram (B&L)
PS/PUS (B&L.)
Mr Watkins
Mr Fittall
Mr Alston
Mr Powell, No. 10**

MR JEFFREY

**DISCUSSIONS WITH SINN FEIN:
INTERNAL COMMENTARY ON THREE OUTSTANDING POINTS**

You asked me for a note on three outstanding issues from last night's discussions:

- (a) plastic baton rounds;
- (b) retrospective powers of the Ombudsman;
- (c) recruitment to the Part-Time Reserve.

2. I thought it might be helpful to produce this note in two sections for each of these points:

- (a) a response that might be drawn on in further discussions;
- (b) a comment (that would be confidential) on the nature of the difficulties.

3. I hope this meets the requirement.

(Signed)

**R MASEFIELD
CB 20062**

RESTRICTED

09-FEB-2001 16:19

FROM PRIVATE OFFICE

TO

P. 02

RESTRICTED**COMMENTARY ON THREE OUTSTANDING ISSUES FROM THE DISCUSSIONS ON
8 FEBRUARY****PUBLIC ORDER EQUIPMENT****Lines to take:**

- Baton rounds remain an essential part of the equipment available to the police (and the army). They are used as rarely as possible, and only in line with the guidelines introduced in 1999.
- Only 26 were fired in the whole of last year, and 112 in the year before that. This reflects the revised procedures for their use, following the Patten report and the lesser incidence of serious public disorder.
- But, at the moment, the baton round is the only available equipment between a live round and the traditional baton.
- Patten did not recommend banning plastic baton rounds. The Government is pushing on with the research programme as Patten recommended.
- We hope to conclude the second, key phase, before the end of 2001.
- In taking Patten forward, the Government will be looking to test "a broader range of public order equipment than the RUC currently possess" against public opinion. We will be looking to you to come forward with practical alternatives.
- The Government can say that the use of baton rounds will be reduced as far as possible, but it cannot guarantee success in the search for an alternative. There is none more acceptable now - as Patten himself discovered. (Baton rounds are widely used in Canadian and US police forces and other countries.)

Comment:

The police and the army must continue to have access to plastic baton rounds (PBRs). In their absence, resort to live rounds would be more frequent - as Patten recognised.

The evidence of the literature survey, ACPO expertise and our contacts with leading US practitioners shows that there is no better equipment available overseas at the moment. There can be no guarantee that any will be found within the next year or two. And a research programme to develop any equipment lasts several years.

RESTRICTED

~~09-FEB-2001 16:19 FROM PRIVATE OFFICE TO~~

H.Us

RESTRICTED

A new, better round (the L21A1) is now being introduced – it is safer and more accurate. This is not yet public knowledge. Its development began in 1997.

We are exploring alternative options, including water canon. We will also consider the acceptability of personalised CS canisters, that are now in use by most GE forces.

RESTRICTED

RESTRICTED

RETROSPECTION FOR THE OMBUDSMAN

Lines to take:

The regulations already cover this:

- (a) if the complaint is not substantially the same as one previously received and she believes there may have been a criminal or disciplinary offence and she considers it grave or exceptional; or
- (b) if there is new evidence (even if the complaint had been considered before) and she believes there may have been a criminal or disciplinary offence and she considers it is grave or exceptional (unless it had already been the subject of disciplinary or criminal proceedings).

If there is an allegation that police investigation was incompetently (or worse) carried out, then:

- (i) if there is new evidence, the Ombudsman may come in under the second test above (if the case is sufficiently serious).
- (ii) if there is no evidence then the Ombudsman may investigate the allegation about the conduct of the original investigation under one or other of the tests above (assuming it was sufficiently serious and had not been dealt with before). If she determines that the investigating officer had failed in his duty eg by failing to interview key witnesses etc, then this, in turn, could amount to new evidence (second test above) on the original complaint enabling it to be re-opened.

It is the Ombudsman who decides what is "grave or exceptional" and what is "new evidence".

Comment:

The regulations give flexibility as they stand. There is a real danger that we are pushed closer to what could prove to be total retrospection. Then every case, including Finucane etc, could be subject to re-investigation. The Ombudsman would have no means of refusing to, at least, conduct a preliminary review of all cases raised with her. Unionists and Police Staff Associations would argue that this is unfair to officers who have been investigated before, quite possibly, in more serious cases, under the supervision of the Independent Commission on Police Complaints (the Ombudsman's predecessor), sometimes with involvement of the Director of Public Prosecutions.

RESTRICTED

RESTRICTED

PART-TIME RESERVE

Lines to take:

- The police and others are committed to building up the Part-Time Reserve as soon as possible. Patten set a four-year timetable - we have taken a three-year target. If it can be done faster, no one would be more delighted.
- But there can be no guarantee. It depends on a number of factors, including:
 - sufficient applicants of the right calibre;
 - the preparedness of community leaders to encourage applicants;
 - the capability of the human resources recruitment agency.

Comment:

The Chief Constable assesses that it will be very difficult to reach 2,500 in three years. While we are including the Part-Time Reserve in the initial advertising, no formal contract has yet been let with the recruitment agency chosen for the Regulars. Handling recruitment and selection campaigns on this combined scale would be unprecedented in Northern Ireland. We cannot jeopardise the success of the Regulars by being too ambitious with the Part-Time Reserve, in the early months.

There can be no guarantee that applicants, especially those who meet the right age, fitness, suitability etc qualifications will come forward.

If we can do it faster, we will; but we will not know whether we can for at least six months.

RESTRICTED

FAXED
PRIME MINISTER

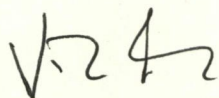
From: Jonathan Powell
Date: 9 February 2001

cc: John Reid, NIO
Bill Jeffrey, NIO
Michael Tatham

SINN FEIN

After our extremely frustrating night yesterday, Gerry Adams called me this afternoon. He had had two meetings today, one with the officers of the party and one with a cross section of party members. The meetings had been positive but the majority had not believed that they yet had enough to go to their people and persuade them to nominate the Policing Board. He would go to Derry this afternoon to meet Martin McGuinness and then they would talk to IRA people, but he thought they would get the same answer. Essentially what he was saying was that they needed more movement from us and more time. I said that they had had both and they really needed to make up their minds. Adams said he had his Executive tomorrow. He would like to speak to you over the weekend. Meanwhile he had the experts working on what were the really essential things they needed on policing. We agreed that you would speak to him on Sunday afternoon at around 4pm.

I attach the text from last night.



JONATHAN POWELL

RESTRICTED

FROM: ROBIN MASEFIELD
HEAD OF PATTEN ACTION TEAM
9 FEBRUARY 2001

JPO
cc: JS
MT
Press

cc: PS/Secretary of State (B&L)
PS/Mr Ingram (B&L)
PS/PUS (B&L)
Mr Watkins
Mr Fittall
Mr Alston
Mr Powell, No. 10

MR JEFFREY

**DISCUSSIONS WITH SINN FEIN:
INTERNAL COMMENTARY ON THREE OUTSTANDING POINTS**

You asked me for a note on three outstanding issues from last night's discussions:

- (a) plastic baton rounds;
- (b) retrospective powers of the Ombudsman;
- (c) recruitment to the Part-Time Reserve.

2. I thought it might be helpful to produce this note in two sections for each of these points:

- (a) a response that might be drawn on in further discussions;
- (b) a comment (that would be confidential) on the nature of the difficulties.

3. I hope this meets the requirement.

(Signed)

R MASEFIELD
CB 20062

RESTRICTED

RESTRICTED**COMMENTARY ON THREE OUTSTANDING ISSUES FROM THE DISCUSSIONS ON
8 FEBRUARY****PUBLIC ORDER EQUIPMENT****Lines to take:**

- Baton rounds remain an essential part of the equipment available to the police (and the army). They are used as rarely as possible, and only in line with the guidelines introduced in 1999.
- Only 26 were fired in the whole of last year, and 112 in the year before that. This reflects the revised procedures for their use, following the Patten report and the lesser incidence of serious public disorder.
- But, at the moment, the baton round is the only available equipment between a live round and the traditional baton.
- Patten did not recommend banning plastic baton rounds. The Government is pushing on with the research programme as Patten recommended.
- We hope to conclude the second, key phase, before the end of 2001.
- In taking Patten forward, the Government will be looking to test "a broader range of public order equipment than the RUC currently possess" against public opinion. We will be looking to you to come forward with practical alternatives.
- The Government can say that the use of baton rounds will be reduced as far as possible, but it cannot guarantee success in the search for an alternative. There is none more acceptable now - as Patten himself discovered. (Baton rounds are widely used in Canadian and US police forces and other countries.)

Comment:

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RESTRICTED

RESTRICTED

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RESTRICTED

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RESTRICTED

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 - the capability of the human resources recruitment agency.

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There can be no guarantee that applicants, especially those who meet the right age, fitness, suitability etc qualifications will come forward.

If we can do it faster, we will; but we will not know whether we can for at least six months.

RESTRICTED

Tom McKane
FAKED

Might be worth

9/2/01
(1940)

your signing them on

Monday to see how things stand. A chance @ PM may

CABINET OFFICE
T 11682
- 9 FEB 2001
FILING INSTRUCTIONS
FILE No

be in NI
next week
(but don't
mention that
to Thales).

Michael Tatum

Communications House
P O Box 3621
Western Road
BRACKNELL RG12 1WJ
England
Tel: 01344 387000
Fax: 01344 387868
DDI: 01344 387809

file

8th February 2001-

Mr Tom McKane
Cabinet Office
70 Whitehall
London SW1.

Dear Tom,

THALES AIR DEFENCE LTD; Work for Northern Ireland

We spoke about the decision Thales has taken, and is on the point of announcing, to place in Northern Ireland development and production work on the VT1 missile.

The VT1 missile is a high performance short range air defence missile used by the Crotale air defence system manufactured by Thales Air Defence in France. In service with over 10 countries, the Crotale has undergone continuous development and capability enhancement.

The contract is valued at circa £60M for an initial tranche of 200 missiles, with substantial potential for follow-on orders.

The contract will create 40 high quality jobs in Northern Ireland and broaden substantially TADL's role in the missile industry. TADL will have full design responsibility for meeting the VT1 performance requirements.

VT1 production will require a broad range of missile engineering skills to address all aspects of the lifecycle. The initial production of 200 missiles will create 30 design and engineering and 10 manufacturing posts for a 3 year period. This is high quality work, not metal bashing.

Our present plan is for Thales Air Defence Limited (the former Shorts Missile Systems) to make an announcement locally tomorrow, 9th February. TADL are in touch with the NIO but it has occurred to us that HMG might wish for higher profile involvement, in which case it would be possible to delay the announcement by a few days. Could you let me or my colleague Ed Lowe know if you would like us to do this? My number is 01344-387809 and Ed's is 01344-387568.

I am copying this to Mike O'Shea in DTI.

Yours ever,

JOHN HOWE

John

'Fraid I don't know if Thales have gone ahead with the announcement today & I can't raise them. Probably not big enough for No 10 to bother with but let me know if I'm wrong.

Oh
9.2

CONFIDENTIAL

FROM: ROBIN MASEFIELD
HEAD OF PATTEN ACTION TEAM
8 FEBRUARY 2001

RECEIVED
6 FEB 2001 862
POL DIRECTOR(L)

cc: Mr Fittall
Mr Kelly
Miss O'Mara
Ms Kirk

JB
et US
MT

[REDACTED]

MR WATKINS

GERRY ADAMS' COMMENTS ON POLICE ACCOUNTABILITY IN NORTH AMERICA

I saw from Michael Tatham's letter of 3 February that Gerry Adams had represented that "US and Canadian policing structures were more accountable".

2. I thought that it might be worth checking out with Bob Peirce whether there was any substance to this.

3. His swift response confirms that Adams is wrong. It also supplies some material that our principals might find helpful to deploy in future.

(Signed)

cc Jonathan Powell

R MASEFIELD
CB 20062

Watch your casting an eye over as well, since the subject may come up again.

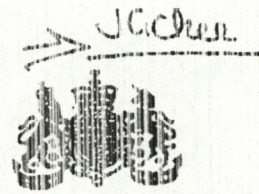
Paul J.
14/2

CONFIDENTIAL

CONFIDENTIAL

NORTHERN IRELAND OFFICE
07 FEB 2001
RIR DIVISION

From Mr R N Peirce
PPA Counsellor



British Embassy
Washington

3100 Massachusetts Ave. N.W.
Washington, D.C. 20008-3600

Telephone: 202-588-6532
Facsimile: 202-588-7859
E-mail:

mpeirce@washington.mail.fco.gov.uk

MR JEFFREY

6 February 2001

Olivia Kirk
Patten Action Team

RECEIVED
- 8 FEB 2001
POL. DIRECTOR (1)

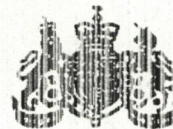
[By Fax]

Dear Olivia,

POLICE ACCOUNTABILITY

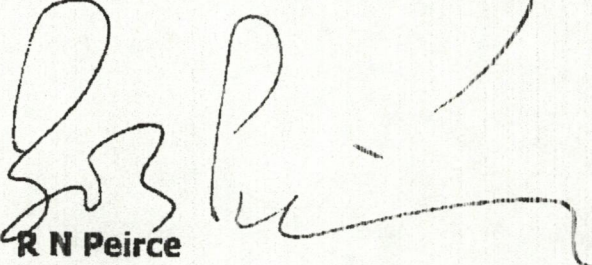
1. Thank you for your note of 6 February about police accountability in the United States. I know of no policing structures in the US (or anywhere else for that matter) that provide more accountability than those proposed in the Patten report. We found nothing of the sort here when I was with the Patten Commission, and I have come across nothing in my fairly extensive contacts with police organizations in this country since I have been with the Embassy. The two Americans on the Patten Commission – Kathleen O'Toole and Gerry Lynch – were certainly clear that nothing existed in the US that was more accountable than what we were proposing. I am sure that Tom Constantine would tell you the same thing.
2. There is no equivalent or near-equivalent of the Policing Board in the US. Civilian oversight of the police is indeed a highly contentious subject in Los Angeles right now, where the Mayor and the Police Chief have been resisting the notion. It has also been resisted strongly in New York in recent years. Mayors are elected of course, and they appoint and fire police chiefs. The chiefs are accountable to the mayors. They are not accountable to a multi-party body of elected and other

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community representatives as the Northern Ireland police chief will be when the Policing Board is up and running. Some cities may have police commissions -- Los Angeles is an example -- but these are appointed by the mayor and have no real power, certainly nothing comparable to the financial and review powers of the Policing Board. You are correct that county sheriffs are elected, but they do not have policing boards holding them accountable.

3. You might like to speak to Nuala O'Loan about US systems for handling complaints -- another vital aspect of accountability. She visited the US and will, I am confident, confirm that there is nothing here to compare with the powers of the Northern Ireland Police Ombudsman. Even the predecessor body in Northern Ireland -- the ICPC -- would have been radical in a US context, when police complaints are treated as something to be handled by police.
4. There are many things to learn about policing from studying the US, but accountability is not among them. If Mr Adams has a good model in mind, he should be asked to name it.

Yours sincerely

R N Peirce

cc: Robin Masefield
Anita Bharucha
PJ Johnston



FROM: THE PRIVATE SECRETARY

MS
cc

Rec'd already
file

NORTHERN IRELAND OFFICE
11 MILLBANK
LONDON
SW1P 4PN

Michael Tatham
10 Downing Street
LONDON SW1A 2AA

8 February 2001

Dear Michael

THE SDLP AND POLICING

The Secretary of State saw Seamus Mallon for 2½ hours on Friday afternoon to discuss outstanding SDLP concerns on policing reforms. He then had a further 2 hours with Hume, Mallon, McGrady and Attwood on Monday afternoon.

The atmosphere was positive. The SDLP are still clearly reluctant to bring things to a head until they know the prospects for a wider deal but the gap on their seven areas of concern has now narrowed significantly. On the part time reserve, Special Branch, the name and flags and emblems, the SDLP appear to have accepted that we have gone as far as we can.

On the Gough Holding Centre, the Chief Constable has offered an objective of closure by April coupled with the reassurance that the necessary practical work to secure this is already in hand. The Secretary of State explained to the SDLP that they had a choice between April as an objective or a somewhat later date as a firm commitment. Their preference was for the earlier, less firm date. On the full time reserve the Secretary of State made some headway in taking them through the acute manpower pressures which the Chief Constable is facing and his consequent unwillingness to anticipate the outcome of the review he will conduct later this year. The Secretary of State was able to share figures showing the expected reduction in





the full time reserve over the next two years even without taking account of non renewal of contracts.

On both occasions the Secretary of State was pressed hard on Finucane, Hamill and Nelson cases. He explained why, in advance of knowing the outcome of the investigations and any subsequent proceedings, he was not willing to give commitments which would set in train an unstoppable course of action further down the line. In his judgement the SDLP, just as much as HMG, could come to regret such commitments.

Nevertheless he agreed to consider whether we could offer a slightly more forward form of words. I attach a revised text. The key new phrase is **“the Government recognises its responsibility to take such further steps as may then be required to meet continuing public concern.”** If the Prime Minister is content, the Secretary of State suggests that he or the Prime Minister should deploy this with the SDLP at the right moment over the next few days. The SDLP are clearly not prepared to come to the point of decision at the moment while the bigger picture remains unclear. The Secretary of State is inclined, therefore, to keep this more forward formulation in reserve.

Yours ever

Kirsten McFarlane

KIRSTEN MCFARLANE



INVESTOR IN PEOPLE

The Government accepts that these three cases are a source of public concern, both in themselves and in terms of maintaining the necessary confidence in the administration of justice. At the moment, investigations continue in all three cases: by Sir John Stevens in relation to the murder of Patrick Finucane; by the Ombudsman in relation to aspects of the police investigation of the murder of Robert Hamill; and by Colin Port into the murder of Rosemary Nelson.

Each of these investigations has the potential to establish the truth, bring those responsible to justice and thereby draw a line under these cases once and for all. For now the Government's priority is to avoid anything which could prejudice the investigations. But when they and any subsequent proceedings are concluded, the Government recognises its responsibility to take such further steps as may then be required to meet continuing public concern. It will, in particular, be willing to consider in each case the option of an inquiry or, as a preliminary step, the appointment of a senior judge to examine the papers relevant to each investigation and advise on the best way forward.

02072703426

K1 of 1

CONFIDENTIAL

cc Jonathan Powell

✓ NO 10

cc: OS
MTFROM: Ivor Roberts
HMA DUBLIN

Date: 5 February 2001

cc: See distribution list below 5/2

To: David Watkins

FINUCANE, HAMILL AND NELSON - POSSIBLE INQUIRIES

1. Your minute of 30 January reported Seamus Mallon's demands for language on inquiries into the Finucane, Hamill and Nelson cases. I have also now seen a copy of Sarah Todd's letter to Michael Tatham on the same subject and a record of your meeting with the Irish side of the Secretariat on 1 February.

2. As well as the inherent merits or otherwise of inquiries into these cases, one of the difficulties is presumably finding a formula which will be reasonably acceptable to Unionists as well as Nationalists. I note that you raised the possibility that Unionists might raise a demand for inquiries into the murders of Gibson, Ewart-Biggs, Breen and Buchanan. I would hope that in the case of Ewart-Biggs and Gibson, we might press for inquiries ourselves. The desire would simply be to ensure that "truth was established and justice done" (to use John Hume's words) in these cases. This year is the 25th Anniversary of the murder of Ewart-Biggs. It would be no more than reasonable to expect the Irish to present a full report on where the investigation lies.

(SIGNED)

Ivor Roberts

cc: PS/SOS (B&L)
PS/Mr Ingram
PS/PUS
Mr Jeffrey
Mr Fittall
Ms O'Mara
Mr Kelly
Mr Maccabe
Ms Bharucha
Mr Masefield
Mr Olszewski
Mr Powell, No 10

CONFIDENTIAL

CONFIDENTIAL

From: PS/Secretary of State (B)
06 February 2001

cc: *See Copy Distribution List*

Mr Jeffrey - O

FINUCANE, HAMILL AND NELSON - POSSIBLE INQUIRIES

The Secretary of State has seen a copy of Ivor Roberts' note of yesterday to David Watkins and would like to know if you have any comments please.

Sarah Todd

SARAH TODD

Private Secretary

☎ 28111

cc: PS/Secretary of State (B&L) - O
PS/Mr Ingram (B&L) - O
PS/Mr Pilling (B&L) - O
Mr Jeffrey - O
Mr Watkins - O
Mr Fittall - O
Miss O'Mara - O
Mr Kelly - O
Mr Maccabe - O
Miss Bharucha - O
Mr Masefield - O
Mr Olszewski - O
Sir Ivor Roberts - O
Mr Powell, No 10 - O



FROM: THE PRIVATE SECRETARY

MT
4/2/01
JS
AC
GS

f
NORTHERN IRELAND OFFICE
11 MILLBANK
LONDON
SW1P 4PN

Michael Tatham Esq
Private Secretary
10 Downing Street
LONDON
SW1A 2AA

8 February 2001

Dear Michael

MEETING WITH UUP: ORGANISED CRIME

When the Prime Minister met a UUP delegation on 23 January, they complained that the police were not acting sufficiently vigorously to counter smuggling in Northern Ireland.

Mr Mandelson drew the delegation's attention to the Task Force set up under Adam Ingram to tackle this problem and the Prime Minister will be aware, from Kirsten McFarlane's letter of 8 January to John Sawers, of some of the authorities' recent successes following the Task Force's creation. At the meeting with the UUP, the Prime Minister assured them that he would write to Ministers about the importance of their departments lending full support to these efforts. I attach a draft.

Yours ever

Kirsten McFarlane

KIRSTEN MCFARLANE



**DRAFT MINUTE FROM PRIME MINISTER TO MINISTERS IN CHARGE
OF DEPARTMENTS**

TACKLING ORGANISED CRIME IN NORTHERN IRELAND

When David Trimble brought a UUP delegation to meet me on 23 January to discuss the progress of negotiations with the SDLP and Sinn Fein, he and his colleagues complained that we were focusing excessively on the nationalists' demands and mentioned other areas of specific concern to them, where they urged us to take action. They claimed, in particular, that the police were not acting sufficiently vigourously to counter smuggling in Northern Ireland, arguing that while its proceeds might be small beer for Customs, they were hugely significant for the paramilitaries.

Peter Mandelson, who was also present at the meeting, drew attention to the Task Force set up in the autumn under Adam Ingram to tackle this very issue and I promised the UUP that I would write to Ministers stressing its importance.

As you may remember, Peter announced the creation of the Task Force in his Conference speech last September, when he explained Adam would be bringing together all the agencies involved in tackling organised crime in



INVESTOR IN PEOPLE

Northern Ireland in order to cut off their activities at source. I know John Reid warmly endorsed this initiative on his arrival in Belfast.

Could I stress the importance I myself attach to this work? We need to tackle organised crime wherever it rears its head. However, in Northern Ireland, the heavy involvement of the paramilitaries in this area gives us a further incentive to do so - partly to cut off what is for them a lucrative source of funding but also to prevent their Mafia-type activities from hindering the transition to a responsible civic society.

Moreover, given the sensitive stage we have reached in negotiations on the peace process, I want to give every encouragement to those committed to the success of the Good Friday Agreement, on whichever side of the political divide they lie. Demonstrating our willingness to take action against organised crime will help us do just that. I am conscious of the contribution a number of your departments have already been making to the Task Force's work. Could all those with an interest ensure they lend full support to its efforts?

I am copying this letter to all Ministers in charge of Departments and to Sir Richard Wilson.



INVESTOR IN PEOPLE

file

FROM: THE PRIVATE SECRETARY

NORTHERN IRELAND OFFICE
11 MILLBANK
LONDON
SW1P 4PN



Michael Tatham
10 Downing Street
LONDON SW1A 2AA

AC JRS JS AC

8 February 2001

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THE SDLP AND POLICING

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On the Gough Holding Centre, the Chief Constable has offered an objective of closure by April coupled with the reassurance that the necessary practical work to secure this is already in hand. The Secretary of State explained to the SDLP that they had a choice between April as an objective or a somewhat later date as a firm commitment. Their preference was for the earlier, less firm date. On the full time reserve the Secretary of State made some headway in taking them through the acute manpower pressures which the Chief Constable is facing and his consequent unwillingness to anticipate the outcome of the review he will conduct later this year. The Secretary of State was able to share figures showing the expected reduction in





the full time reserve over the next two years even without taking account of non renewal of contracts.

On both occasions the Secretary of State was pressed hard on Finucane, Harill and Nelson cases. He explained why, in advance of knowing the outcome of the investigations and any subsequent proceedings, he was not willing to give commitments which would set in train an unstoppable course of action further down the line. In his judgement the SDLP, just as much as HMG, could come to regret such commitments.

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Yours ever

Kirsten McFarlane

KIRSTEN MCFARLANE



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From: Michael Tatham
Date: 8 February 2001

PRIME MINISTER

cc: Jonathan Powell
John Sawers
Helena Hopkins

TRIMBLE HANDLING

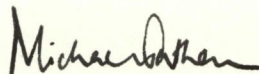
Trimble's internal party processes effectively begin tomorrow at 1400 with a meeting of party officers, leading into Saturday's Executive meeting.

David Lavery has been on the phone repeatedly, emphasising the importance of a) briefing Trimble on the outcome of Jonathan's talks in Belfast and b) steadying him as he goes into a bruising round of party meetings and advising him on how to handle the weekend.

Jonathan will give Lavery a read-out once things have concluded in Belfast. But you will also need to speak to Trimble before the start of the Anglo-French Summit. We have therefore teed up Trimble for an early morning phonecall at 0700ish tomorrow while you're in the car en route to the airport.

Trimble has letters ready to go to McGuinness and De Brun restating (in very condescending terms) the ban on their NSMC participation. These will issue first thing tomorrow. If Jonathan has achieved enough progress to make this worthwhile, your call would be an opportunity to persuade Trimble not to send them.

Jonathan will call you tonight to brief you on where things stand and on how to handle Trimble tomorrow morning.



MICHAEL TATHAM

01232521118

LETTER FOR SIGNATURE BY THE FIRST MINISTER

Mr Martin McGuinness MLA
Minister for Education
Rathgael House
Balloo Road
BANGOR
BT19 7PR

February 2001

Ms Bairbre de Brun MLA
Minister for Health, Social Services & Public Safety
Block C5.10
Castle Buildings
Stormont
BELFAST BT4 3SS

February 2001

I am writing to you following the judgment handed down on 30 January in the Judicial Review proceedings arising from my decision not to nominate you to attend the North-South Ministerial Council. I am writing in similar terms to [Martin McGuinness/Bairbre de Brun].

Although there are a number of aspects of the Court's judgment which I intend to appeal to the Court of Appeal, the judgment helpfully clarifies the law in a number of important respects.

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At page 9 of the judgment Mr Justice Kerr refers to paragraph 3 of the Decommissioning section of the Belfast Agreement which dates as follows:

“All participants ... reaffirm their commitment to the total disarmament of all paramilitary organisations. They also confirm their intention to continue to work constructively and in good faith with the Independent Commission, and to use any influence they may have, to achieve the decommissioning of all paramilitary arms within two years following the endorsement in referendums North and South of the agreement and in the context of the implementation of the overall settlement.”

As the Court states, the Agreement having been endorsed in referendums North and South: **“The participants are therefore committed to using their influence to bring about the decommissioning of all paramilitary weapons.”** It is clear from the judgment of the Court, therefore, that Sinn Fein are subject to a legal commitment to use their influence to bring about the decommissioning of all paramilitary weapons.

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The Court's judgment also clearly rejects a number of the more spurious accusations which you and your Party have made against me, namely:

- the Court has held that the Code of Conduct at Annex A to Strand One of the Agreement is irrelevant to the present case – thus effectively debunking your accusation that I have acted in breach of my Pledge of Office as First Minister;
- the Court has rejected your argument that by depriving you of the opportunity to attend NSMC sectoral meetings I have discriminated against you;
- the Court has rejected your argument that the Ministerial Code imposes an obligation on me to nominate you to particular NSMC sectoral meetings; and
- the Court has rejected your argument that the Ministerial Code gives rise to a legitimate expectation that you would be nominated to particular NSMC sectoral meetings.

Having rejected these accusations as groundless, the Court has also ruled that Section 52 of the Northern Ireland Act 1998 does not impose on

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either the First Minister or the Deputy First Minister a duty to nominate a particular individual to attend the NSMC. As the judgment states:

“Provided the Ministers they nominate satisfy the requirement of cross-community representation and provided they have sought conscientiously to agree on the nomination, the First Minister and the deputy First Minister enjoy a discretion as to whom they should nominate.”

The Court has further made clear that there are political considerations which may lawfully inform the exercise of the discretion the Deputy First Minister and I have regarding the nomination of Ministers to the NSMC. Specifically, Mr Justice Kerr has said:

“I accept that the First Minister could not be required to nominate someone whom he regarded as unsuitable in the sense that that person was working against the implementation of the Agreement. Indeed, it appears to me that it would be open to the First Minister to conclude that a potential nominee was unsuitable for nomination because he had not made appropriate efforts to implement the Agreement.”

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I am of the opinion that in the current circumstances you and [Martin McGuinness/Bairbre de Brun] are unsuitable for nomination under Section 52 of the Northern Ireland Act 1998 to attend and contribute to the work of the North-South Ministerial Council because you have not made appropriate efforts to implement the Agreement in all its aspects and are seeking to undermine that Agreement. In reaching this opinion, I have particularly in mind the commitment you are under to work constructively and in good faith with the Independent International Commission on Decommissioning and to use the influence you have to achieve the decommissioning of all paramilitary arms. As has been made clear by successive reports from the IICD, there has been a transparent failure to achieve the decommissioning of paramilitary arms. It follows that any efforts you and your colleagues may have made in this regard have been singularly ineffective.

The commitment to decommissioning paramilitary arms, taken together with the principle of consent which reinforces Northern Ireland's position within the United Kingdom, is at the very centre of the Belfast Agreement and is the foundation upon which the fabric of fully inclusive government depends. It is in this context that the complete absence of any publicly available evidence of a genuine effort, on your part and that

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of your colleagues, to bring about decommissioning is having the effect of undermining public confidence in the Agreement.

Bearing in mind therefore the statement by the Court that your Party is under a commitment to use its influence to achieve the decommissioning of all paramilitary weapons, I would be grateful to receive from you full and specific details of any steps you claim to have taken to date in pursuit of this commitment. Also, given that successive IICD reports have indicated an absence of progress on decommissioning, I would be grateful to receive from you your assessment of why such efforts as you may have made have failed to achieve decommissioning. Finally, I would also be grateful to receive from you an early indication of what steps you and your colleagues intend to take to achieve the decommissioning of all paramilitary weapons and in particular those weapons held illegally by the Provisional IRA and the timescale within which complete and verifiable decommissioning of those weapons will be achieved.

Because of the importance I attach to this issue, I am sending a copy of this letter to the Deputy First Minister and I am also making the text available to the press.

CONFIDENTIAL - PERSONAL



10 DOWNING STREET
LONDON SW1A 2AA

SUBJECT
MASTER

Filed on

file

From the Private Secretary

8 February 2001

FAXED

Dear Paul To Hillsborough + Belfast
8/2

TELEPHONE CONVERSATION WITH THE TAOISEACH

The Prime Minister spoke by telephone to the Taoiseach shortly before 1500 today.

The Prime Minister said he had moved a long way (the Taoiseach said there was no doubt about that), possibly too far given the risk of losing the Unionists at the other end. Adams was still chiselling away. He needed to be told clearly by the Irish that we could go no further. We could not have the review at six rather than twelve months. This would make the Chief Constable's position impossible (the Taoiseach acknowledged this).

The Prime Minister said he assumed the Irish were handling the SDLP. We were into dangerous territory from their point of view, given their sensitivities about legislation. The Taoiseach said his team were keeping the SDLP briefed.

The Taoiseach mentioned he had spoken to Trimble who was under a lot of pressure because of Saturday's meeting but did not seem to be thinking in terms of suspension. The Prime Minister said that even on the best scenario we faced a serious time-snap. If we agreed a deal with Sinn Fein today, we would need to put it together early next week. But in between there was the UUP Executive at which there was a substantial risk of Trimble saying something unhelpful. We were trying to moderate any moves or public statements by Trimble but he clearly felt he had to do something to get through the meeting. We needed to manage the weekend extremely carefully and prevent Sinn Fein from taking umbrage. It would be helpful if the Taoiseach could explain the realities to Sinn Fein. The Taoiseach said he would brief his officials immediately on the Prime Minister's two points (before their meeting with Sinn Fein at 1530).

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DM

CONFIDENTIAL - PERSONAL

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

8 February 2001

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The Taoiseach reminded the Prime Minister that policing was a big move for Sinn Fein. The Prime Minister agreed but pointed out that it was a logical conclusion to their current approach. The Taoiseach said Sinn Fein/IRA were worried about losing some of their people, but this was a bridge that they had to cross at some point.

Yours ever

Signed : Michael Tatham
08/02/2001

MICHAEL TATHAM

Paul Priestly
NIO



Rte

*From the Government Chief Whip
House of Lords
London SW1A 0PW*

Tel: 020-7219 3131

The Rt Hon Margaret Beckett MP
President of the Council and
Leader of the House of Commons

CS of: SU
PJ.

7 February 2001

Dear Margaret,

PROPOSED BILL ON DISTRICT COUNCIL ELECTIONS IN NORTHERN IRELAND

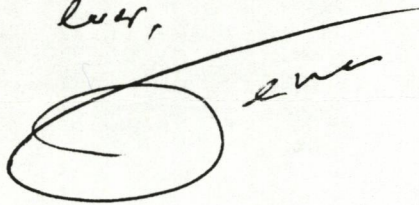
I have seen a copy of the minute from John Reid to the Prime Minister seeking a way forward for legislation to postpone the District Council Elections in Northern Ireland.

Within the last twelve months, we have learned that the old convention of cross party agreement on Northern Ireland Bills no longer holds good. You will recollect the extraordinary evening last July when, without notice, the House of Lords divided on the Second Reading of the Disqualifications Bill. Furthermore we have also learned that when an agreement is reached in the usual channels in the House of Commons to co-operate on a Bill, that agreement does not necessarily hold in the House of Lords (I am thinking most particularly of last session's Football Disorder Bill). Because the Elections in Northern Ireland are scheduled for 16 May, it is clear that this Bill would have to be taken through very quickly in order to receive Royal Assent in time. The only way to take this Bill through quickly in the Lords is if all Parties agree. This means that all Parties must agree that the Bill should be expedited: and that this means that Standing Orders would have to be suspended to allow as many stages as necessary to be taken in a single day: and that the day or days themselves would be chosen by the Government and accepted by the Opposition without prevarication.

In similar situations in the past, I have suggested that certain Bills should not be introduced unless conditions such as these were met. I do not propose to set conditions like that on this Bill. Instead I would simply say this: if the Bill is introduced without the agreement which I have spelt out above being reached, it simply will not reach the Statue Book in time. If the Bill is introduced the Northern Ireland Ministers must understand that if they have not received the assurances I have outlined there would be nothing I can do to get the Bill on the Statue Book in the times-scale they would like. If however they managed to obtain cast iron guarantees from

the Conservatives and the Liberals in the Lords that they will co-operate in the way I have described then I would say there is every chance of the Bill reaching the Statue Book. I am anxious that this should be understood by the Northern Ireland Ministers before they make any final decision in relation to this proposed Bill.

I am copying this letter to John Reid, Charlie Falconer, Josie Farrington the other Business Managers, First Parliamentary Counsel, Clare Sumner at No 10 and to Sir Richard Wilson.

Johns letter,


DENIS CARTER

Copy handed to PM
+ faxed to JPo 7/2

NORTHERN IRELAND: TEXT

The British Government is aware of the concerns that have been expressed that the Government's legislation does not fully implement the letter and spirit of the Patten Report and deliver the new police service we all want. These concerns include, in particular, the tripartite arrangements for the accountability and the powers of the Policing Board, disqualification from independent membership of DPPs, the extension of the functions of the Belfast DPP Sub Groups and clarification of the name if required. We make it clear that [on the basis of the review] and as rapidly as possible after its report in [January/June 2002] the Government will amend legislation to remedy each of these and other concerns in keeping with Patten.



10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

7 February 2001

Dear Paul

SUBJECT
MASTER

MEETING WITH DAVID TRIMBLE

The Prime Minister saw David Trimble, David Lavery and David Campbell this afternoon in the House. The Secretary of State was present for the first ten minutes of the meeting. William Fittall, Tom Kelly and I were there throughout.

The Prime Minister said we hoped by the end of today to have a clear picture of Sinn Fein/IRA's position. The negotiations were still alive. Sinn Fein were giving conflicting signals. Yesterday they had seemed off the boil; today they were back on the boil. Overall our impression was that this reflected the progress of their internal consultations, rather than declining interest in a deal. On decommissioning, Sinn Fein appeared to be trying to present what was proposed as consistent with their theology on not surrendering weapons. (Referring back to rumours Trimble had mentioned at their last meeting, the Prime Minister said there had been a report referring to a two year wait before decommissioning, but this was far from authoritative.) At any rate, the problem for Sinn Fein seemed to be not so much decommissioning, but policing. This was a huge step for them and one they might be finding it hard to sell internally. Meanwhile we were very conscious of the time pressure on Trimble.

Trimble said he was now in the position of having no choice but to up the ante. He had drafted a letter to McGuinness and de Brun which he planned to send tomorrow. The letter would contain the following elements:

- it would set out aspects of the High Court judgement, in particular those parts which rejected arguments deployed by Sinn Fein;
- it would then refer to the judgement's clear view that there was a legal obligation on those in the Executive to pursue the goal of decommissioning;
- it would state that anyone who failed to meet this legal obligation was not suitable to represent the Executive in NSMC meetings;

- in the light of all this, the letter would ask McGuinness and de Brun to provide details of all the efforts they had made – and would make in the future - to achieve decommissioning, together with an assessment of why these had not so far been successful.

This would in effect restate the current position vis-à-vis Sinn Fein representation at NSMC meetings. On Saturday he would be obliged to move further. Trimble said he had not yet finalised his thinking about this. He would probably not go much further than the letter but he might give an indication of what additional steps lay in the pipeline.

The Prime Minister urged Trimble to hold off sending the letter. Trimble said he could only do so until Friday morning. He acknowledged that, once sent, the letter would effectively become public – indeed he would need to refer to it on Saturday. The Prime Minister said there was a serious timing problem to address. We hoped to have a good sense by the end of today of the way ahead. But, even on a positive scenario, we could not move to completion until early next week (not least because of the Anglo-French Summit on Friday). If we stood on the cusp of an agreement at the end of this week, it would be crazy to lose this because of developments over the weekend. Trimble said his position was extremely fragile. There was a possibility of his facing a motion at the weekend (sponsored by some of his Parliamentary colleagues) calling for withdrawal from the Executive. He had to say something to get through the Executive. If we were on the brink of a deal, then the Government would need to tell the other parties to make allowances for his delicate position and not react disproportionately to anything said on Saturday. The Prime Minister said the problem was that once Trimble had spoken publicly, Sinn Fein would not wish to take any steps that might be interpreted as a concession to his robustness. Trimble replied that we should be making this point to Sinn Fein as an argument for their moving before the weekend.

The Prime Minister said the coming weekend would need very careful management. It was important that Trimble did not set off a chain reaction. A helpful approach would be to hedge any statement with a sense of further steps being in suspense for now and only triggered by prolonged stalemate. The Prime Minister thought it might be useful to create a sense of on-going progress and near-finality by announcing at the end of this week that he would visit Belfast early next week (Tom Kelly strongly agreed with this idea). The Secretary of State told Trimble he might be able to engineer a sense of activity on Friday if this would help.

Trimble said he planned to speak to the Taoiseach tomorrow. The Prime Minister said, if he did so, he should lay it on the line about his difficulties and the consequent need for more Irish pressure on Sinn Fein. Trimble also said he might

have a word with Martin McGuinness. He wondered whether somebody (not Jonathan Powell!) could have a discreet word with Donaldson. If Donaldson got a sense of impending breakthrough, he might stay his hand at the weekend.

Trimble probed a little on our discussions with Sinn Fein on policing. The Prime Minister said current discussion was created around the terms of the review. We hoped this would not be problematic for him. Trimble said on his side he had softened the concept of a review by calling for one himself. The Prime Minister said it might be useful for Trimble to have in mind the kind of issues from his side he would like to see covered in a review. Trimble mentioned the operation of DPPs. HMIC was reportedly very worried about the level of oversight to which the police would be subjected (Oversight Commissioner, Ombudsman, DPPs). Trimble also referred to a human resources problem in the police. There was a lack of senior talent to support the Chief Constable (who was showing clear signs of strain). Trimble added that he wanted to talk through with the Secretary of State our intended approach on independent appointments to the Policing Board.

Trimble briefly raised inquiries. In its current shape, this issue was seen purely in terms of concessions to the nationalists. Cases of concern to loyalists should also be factored in.

Trimble ended by talking about the results of public opinion research he had commissioned in targeted areas of his constituency. This highlighted that decommissioning was easily the main concern of his electorate, followed by health and only then policing. The research also indicated that he would narrowly survive the election. The Prime Minister said we were after an agreement that would emphatically change the climate of opinion within unionism in Trimble's favour. Trimble agreed that if we secured movement, he should campaign hard on the basis of it.

Yours ever

Michael

MICHAEL TATHAM

Paul Priestly
NIO

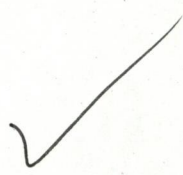
NORTHERN IRELAND OFFICE
CASTLE BUILDINGS
BELFAST BT4 3SG

cc JAPS
JAPS
A/Press



Jonathan Powell Esq
Chief of Staff
10 Downing Street
LONDON
SW1A 1AA

Par
to see before your meeting
w. R. Trimble



6 February 2001

Dear Jonathan,

NORTHERN IRELAND: PLAN B

You asked Bill Jeffrey for advice on what we should do if Sinn Féin remain as intransigent as ever, and we approach Trimble's weekend meetings no further forward.

The first point to make is that we are in little doubt that Trimble will feel obliged to raise the temperature if nothing has happened by then. He meets his party officers on Friday and his Executive on Saturday. David Lavery told Bill this morning that, as yet, Trimble had no clear strategy, but he was in the kind of mood where he could well take a bad decision. David's sense was that he was likely to ratchet up the sanctions on North/South, perhaps by pulling the UUP out altogether and making the North/South institutions unworkable, which would produce a predictable reaction from Sinn Féin.

Time is therefore extremely short. It is possible that, if there was a real prospect of a breakthrough early next week, Trimble could be persuaded to hold off for a few days and have a special Executive meeting later next week. The Irish seem to be pinning their hopes on this, but we can't assume that Trimble could deliver it, even if he wanted to.

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FROM: THE PRIVATE SECRETARY

Rec'd by ax the



NORTHERN IRELAND OFFICE
CASTLE BUILDINGS
BELFAST BT4 3SG

Jonathan Powell Esq
Chief of Staff
10 Downing Street
LONDON
SW1A 1AA

6 February 2001

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NORTHERN IRELAND: PLAN B

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If the Sinn Féin position remains as it is, my Secretary of State thinks that our first step should be to give them our best and final position on the 12 month review of policing, and try to establish whether their concerns are confined to policing or whether they impact on the original deal on weapons/normalisation/OTRs.

My Secretary of State believes that it will be crucially important for the long-term stability of the Agreement to get Sinn Féin and the SDLP on board for policing. As a result of his discussions with Seamus Mallon and others in the last couple of days, he believes that the SDLP are close to signing up, but will be reluctant to move for as long as there is a risk of being outflanked by Sinn Féin. We should therefore keep working to get Sinn Féin to nominate to the Policing Board. But – provided we can avoid Adams' completely decoupling the two issues and thereby putting policing in balk until after the Election – in the short term it seems to him more urgent to pin down the understanding on weapons. If we can get the IRA talking to de Chastelain, it would take some of the heat out of the situation. If we don't do that, Trimble is likely to raise the stakes, and we could be on a downward spiral.

My Secretary of State would therefore favour an approach which got policing on to a slightly slower track, with discussions continuing over the weekend and into next week, and the major moves on weapons, etc. being taken in the next few days. We may well discover that what Sinn Féin are actually saying is that they need satisfaction on policing before the deal can be done on weapons. If so, that would scarcely be consistent with the signals from the Irish that decommissioning is a done deal, but at least we would know where we stood.

There would also be a better prospect of winning the inevitable PR battle with Sinn Féin. As things stand, they are rather hiding behind the sheer magnitude of the

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decision they face on policing. In fact, the pressure should be on them, because we have moved very significantly on security normalisation and OTRs, and it is indefensible that there should still have been no more than a phonecall from the IRA to de Chastelain in almost a year.

If the true position is that Sinn Féin will not deliver the IRA on weapons because they are holding out on policing, we do have a problem. It would still be worth trying to create some space in which a renewed effort could be made to resolve it. The Prime Minister could try to persuade Trimble to hold off for another week, but it would be easier to do so if there were some more concrete grounds for optimism than there are now.

To sum up, the Secretary of State thinks the gameplan should be:

- to give Sinn Féin our best shot on the 12 month review of policing, making it clear that we can go no further;
- to try to bring the weapons/normalisation/OTRs part of the deal to a head in the next day or so, on the basis that we will carry on talking about policing, over the weekend if necessary;
- if it becomes clear that that won't work because Sinn Féin are making satisfaction on policing a precondition for movement on weapons, to try to create some breathing space by persuading Trimble to hold the line on Saturday, for, say, another week; but to press the Irish and Sinn Féin hard for some plausible ground on which he could do so.

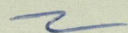
If all that fails, and the UUP takes a decision to withdraw its Ministers from the Executive, we will need to consider suspending the institutions again, and restoring

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direct rule. We judge that we are still some way off that, but are having some work done on the practical aspects on a contingency basis.

Yours ever,

Paul


PAUL PRIESTLY
Private Secretary

CONFIDENTIAL AND PERSONAL

From: Michael Tatham
Date: 6 February 2001

JONATHAN POWELL

TELEPHONE CONVERSATION WITH GERRY ADAMS

You spoke briefly with Gerry Adams this afternoon.

Adams mentioned the Prime Minister's commitment to identify those Sinn Fein concerns on policing which did not require legislation. You briefed Adams in reverse terms, saying the following points of concern to Sinn Fein *would* require legislation:

- A new oath. This would in theory require legislation. In practice in a year's time the new arrangements would be up and running so the point was virtually an academic one.
- Changes to the accountability and powers of the Policing Board. We could legislate on this if the initial experience suggested this would be required.
- Allowing those with criminal convictions onto the DPPs. We could legislate on this.
- Functions of the sub-groups of the Belfast DPP. We could legislate on this.
- The qualification on the requirement for police officers to display their names. This was a non-issue. We would ensure names were displayed. We were not looking for loopholes to exploit.
- The name. We did not expect problems with abuse of the current formula. But if there were, we could legislate.

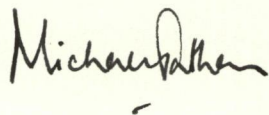
You added that we might not be able to say all this publicly without losing people at the other end of the see-saw.

You emphasised that we were close to crunch point. Trimble had a meeting at the end of the week. Without progress, he might well start upping the ante. You were ready to come over to Belfast if that would be helpful.

Adams said your remarks on policing had been a useful clarification. He was about to go into a meeting which would enable him to gauge the degree of wriggle room. But he was not optimistic. Our respective needs on this issue were conflicting.

You said (making clear you had not discussed this with the Prime Minister) that if policing was becoming intractable there might be a case for leaving it to one side for now and pressing ahead with the other elements of the package in order not to lose the unionists. Adams said this was worth exploring. His objective was to settle policing on acceptable terms. If that wasn't going to happen, the rest of the package needed to be managed properly.

Adams said he would call you tonight after 2030. He thought there would be value in your going over to Belfast tomorrow (Richard Macauley subsequently phoned me to confirm the latter point).



MICHAEL TATHAM

FROM THE RIGHT HONOURABLE THE LORD IRVINE OF LAIRG



HOUSE OF LORDS,
LONDON SW1A 0PW

~~DP~~ (F)
sv
gc: MT
MO
~~MT~~
OS.

The Rt Hon Dr John Reid MP
Secretary of State for Northern Ireland
Northern Ireland Office
11 Millbank
LONDON
SW1P 4PN

5 February 2001

Dear John,

DEVOLUTION GUIDANCE NOTE ON THE ROLE OF THE SECRETARY OF STATE FOR NORTHERN IRELAND POST DEVOLUTION

Peter Mandelson wrote to me on 18 December, copying his letter to DP colleagues, attaching a draft guidance note covering the role of the Secretary of State for Northern Ireland post devolution and inviting comments.

You replied, in your capacity as Secretary of State for Scotland. I also responded myself in my departmental capacity with some comments on the text. These have been reflected in the final text, which I attach.

This guidance note will be included in the next tranche of Devolution Guidance Notes to be published by the Cabinet Office and will also be made available on the Cabinet Office's internet site.

I am copying this letter to the Prime Minister, members of DP and to Sir Richard Wilson.

Yours *LIW,*
Seny

DEVOLUTION GUIDANCE NOTE 9:**POST-DEVOLUTION PRIMARY LEGISLATION AFFECTING WALES****Introduction**

1. This note sets out guidance for UK Government Departments on consulting the Cabinet of the National Assembly for Wales on new legislation affecting the Assembly's responsibilities. The UK Government has agreed with the Cabinet of the National Assembly that they will normally consult each other from an early stage on the development of relevant legislative proposals, in confidence where necessary. (See Devolution Guidance Note 1, which should be separately read if you are unfamiliar with it, in particular paragraphs 5.3 to 5.6). This means that the Assembly Cabinet should always be consulted on Bills which:

- confer new functions on the Assembly;
- alter the Assembly's existing functions (including legislation on, for instance, freedom of information, which would affect the overall discharge of its duties and those of public bodies for which it is responsible); or
- otherwise affect areas which are the responsibility of the Assembly, including where it will be responsible for implementation in Wales, though policy control remains with the UK Government.

Departments should make clear when information is being passed in confidence.

There is no absolute need to consult the Assembly Cabinet on other Bills, although departments might find this useful in some circumstances and the Assembly Cabinet might likewise wish to make representations about such matters itself.

2. The purpose of this guidance is to facilitate the efficient conduct by the UK Government of its legislative business. Disagreements are an impediment to that and it is in the Government's interests that potential disagreements are identified as early as possible through consultation. Potential points of disagreement with the Cabinet of the National Assembly should be fully explored and wherever possible resolved before legislation is introduced or, in the case of Bills which are advance drafted, before Bills are published. Departments will be expected therefore to make every effort to ensure that the Legislative Programme Committee (LP) is fully aware of any potential difficulties which might be material to their decisions.

3. Consistently with the separation of functions between LP on the one hand and policy committees, such as EA (Economic Affairs) and HS (Health and Social Affairs), on the other, this note is not concerned with the process by which the Assembly Cabinet is consulted about policy. Arrangements for this are set out in the Memorandum of Understanding, the agreement on Common Working Arrangements (Devolution

Guidance Note 1) and the various bilateral concordats between Departments and their counterparts in the Assembly.

Government of Wales Act

4. Section 31 of the Government of Wales Act 1998 places a duty on the Secretary of State for Wales to consult the Assembly after the beginning of each Session on the legislative programme and on non-programme Bills agreed for introduction subsequently (unless there are considerations relating to the Bill which make such consultation inappropriate). The duty includes one of personal attendance by the Secretary of State for Wales. It will provide an opportunity to consider the content of individual Bills, in addition to the Government's choice of priorities. More guidance on the role of the Secretary of State for Wales, including the role in relation to primary legislation, is given in Devolution Guidance Note 4.

Government Bills - LP

5. There may need to be consultation with the Assembly Cabinet on a proposed Bill during or prior to consideration by LP of the content of the legislative programme. In many cases, such consultation will occur naturally, at the same time as consultation takes place on policy content. Where that is not the case, Departments should consider alternative means of obtaining the Assembly Cabinet's views, to feed into their thinking about the priorities which they would put to LP. Where the possibility of particular legislation has not been publicly announced, information going to the Assembly Cabinet should be passed in confidence. It will be a matter for agreement whether, and to what extent, confidentiality must constrain wider consultation by the Assembly Cabinet and in no circumstances will the Assembly Cabinet circulate or allude to Bill material without the consent of the lead Department - such agreement, if reached, may depend on the duty of confidentiality extending to any other bodies consulted by the Assembly Cabinet. Additional guidance on confidentiality is given in paragraph 11 of the Memorandum of Understanding agreed between the UK Government and the devolved administrations.

6. Consultation with the Assembly Cabinet can be facilitated if departments ensure that Bill material deals accurately with the Assembly and addresses certain common features of the devolution settlement. The annex to this note lists some of the main aspects of this. While this is not prescriptive, and is no substitute for detailed discussions, it should ensure that such discussions can focus on any substantive sticking points and are not dominated by relatively minor and technical matters.

Preparation of Bills and Submission to LP

7. The essential requirement is that by the time proposals to introduce legislation reach LP, all devolution-related issues are to have been addressed and so far as possible resolved (significant unresolved issues may affect LP's view of the readiness of the Bill

for introduction). Papers for LP must contain a statement to that effect. In addition papers to LP should:

- explain any provision proposed in respect of Wales which differs from the provision proposed for England or the rest of the UK;
- identify any exception to the general rule that a new function created by the Bill will pass to the Assembly in cases where it already exercises similar functions within that subject area and identify the policy clearance for that decision;
- identify any change to the existing functions of the Assembly, including any new function being vested in the Assembly which might raise issues of general principle, and the policy clearance for the change; and
- confirm that the Assembly Cabinet has been consulted on the draft clauses as necessary (including commencement and other transitional provisions), summarise the Assembly Cabinet's view and indicate whether DP or the Joint Ministerial Committee are likely to become involved (either in correspondence or through a meeting).

8. There should, in addition to any earlier policy discussions, also be consultation with the Assembly Cabinet as part of the process of formulating instructions to Parliamentary Counsel, where these touch on the Assembly's responsibilities, so that their interests are understood from the outset and any dispute resolution process undertaken in good time.

Pre-Legislative Draft Bills

9. The procedures described above should also be followed for Bills being published in draft.

Private Members' Bills

10. The same procedures should be followed for Government Hand-out Bills as for Bills in the main programme. For other Private Members' Bills, if the Government intends to support the Bill, the Assembly Cabinet should likewise be consulted on any matters which affect the Assembly's responsibilities. It is not absolutely necessary to inform the Assembly if it is clear that the Government cannot support a Private Members' Bill. However it will frequently be helpful for officials in Wales to be aware of this if the Bill covers functions which are the responsibility of the National Assembly.

Constitution Secretariat
Cabinet Office
January 2000

ANNEX 1

Annex: Referring to the Assembly in primary legislation

The following checklist aims to cover some largely technical points in referring to the Assembly in Government Bills. It is neither exhaustive nor prescriptive. However, it should serve as a useful aide-mémoire for departments and should minimise the need for discussions with Assembly officials to be dominated by relatively minor issues such as these.

Nomenclature

- Parliamentary Counsel will judge on the most suitable way of referring to the Assembly in a Bill, for example by its formal title, "the National Assembly for Wales", or by a short title such as "the Assembly". However, the term "Welsh Assembly" is always to be avoided.
- The Government of Wales Act introduced a new definition of "Wales", expanding the Assembly's jurisdiction to include the sea around Wales to a distance of 12 nautical miles. Where a Bill confers functions on the Assembly which could be exercised in relation to the sea or to maritime activities, it should thus normally use the definition of Wales in s155 of the Government of Wales Act and orders made thereunder.

Functions in a Bill

- Functions should normally be conferred on the Assembly as a whole, rather than on a named office-holder (such as the First Secretary). It is for the Assembly to consider delegating any new functions it receives to the First Secretary or to any other arm of the Assembly.
- Commencement provisions in a Bill (i.e. the means by which it comes into force) should normally apply on equal terms to England and Wales, and to Ministers and the Assembly. Again, proposed departures from these two presumptions (for example, if there is a good case for a common implementation date) should be discussed at an early stage in the pre-legislative process.
- While it remains possible to confer functions on the Assembly by means of a transfer Order under s22 of the Government of Wales Act, new functions should normally be conferred directly on the Assembly by primary legislation. To do otherwise can increase the amount of parliamentary time needed (by requiring it to consider the order as well as the Bill) and potentially misleads as to the Government's intentions (since Parliament will assume the functions are not being conferred on the National Assembly).

Statutory procedures

- The Assembly's procedures as regards subordinate legislation are not the same as Parliament's: in particular, subordinate legislation cannot routinely be made in the Assembly using a negative procedure. Bills should thus not seek to prescribe the procedures for making Assembly subordinate legislation, and provisions applying Parliamentary procedures to subordinate legislation made by Ministers should not extend to the Assembly.
- A Bill should not normally subject the actions of the Assembly to Ministerial consent or approval (or vice versa), apart from certain functions which require the consent of HM Treasury. Exceptions to this should be explored as early as possible in the pre-legislative process.
- Where there is a requirement for Ministers to consult the Assembly before acting (or vice versa), this should be included in legislation rather than in a concordat.

New public bodies

- Where the Assembly will be wholly or partly responsible for public bodies and offices, these should have statutory titles in Welsh and English (e.g. "There shall be a [title of body in English] or [title of body in Welsh]"). Assembly officials will be able to advise on a suitable translation into Welsh.
- A new public office should only disqualify its holder from membership of the Assembly where that would cause an unavoidable conflict of interest with the Assembly's responsibilities. Disqualification from membership of the House of Commons does not always give rise to disqualification from the Assembly (s12, Government of Wales Act). Disqualification should generally be left to an Order under s12(1)(b) of the Government of Wales Act.
- New public bodies which fall solely under the Assembly's control should normally be subject to its general powers to reform public bodies in Wales (ss27&28 and Sch.4, Government of Wales Act). A Bill should also normally provide for records of such a body to be Welsh public records (ss116-118, Government of Wales Act).
- Consideration should always be given as to whether a new public body or office-holder should be subject to the Assembly's powers of summons (s74 and Sch.5, Government of Wales Act). Generally speaking subjection to these powers will be appropriate in cases where the Assembly might reasonably require information from a public body or office-holder to carry out its executive functions (i.e. when there is reasonable common ground between the body's responsibilities and those of the Assembly).

- Where the Assembly is to be wholly responsible for a new body, it should have the power to determine the form of that body's accounts, subject to Treasury consent.
- Bills should provide that the Auditor General for Wales (AGW), and not the Comptroller and Auditor General, is to be responsible for auditing the accounts of any body which reports solely to the Assembly.
- Where the AGW audits a body's accounts, s/he should also have the power to conduct "value for money" examinations into that body.

DGN 5: THE ROLE OF THE SECRETARY OF STATE FOR NORTHERN IRELAND POST-DEVOLUTION

Summary

1. With effect from 2 December 1999, Ministerial functions in respect of devolved matters in Northern Ireland transferred to the Northern Ireland Assembly and its Executive Committee of Ministers. The Secretary of State for Northern Ireland continues to represent Northern Ireland interests in all matters within the Cabinet. The Memorandum of Understanding and associated system of concordats provide for consultation, co-operation and exchanges of information in relation to the interests of the devolved administration in policies of the UK Government. [Note: devolution was suspended by the Secretary of State from 12 February 2000 but restored with effect from 30 May 2000.]
2. UK Departments will need to distinguish between excepted, reserved and transferred matters (see paragraph 2) when considering the impact of their policies on Northern Ireland. Cabinet Committee papers are not available to members of the Northern Ireland Administration (and inter-Departmental correspondence will not normally be copied to them by the NIO). The lead UK Department will therefore need to make its own arrangements in terms of consulting/advising the Northern Ireland Administration and should indicate whether they have done so when circulating proposals for collective consideration.

Introduction

3. The purpose of this note is to offer guidance to UK Departments on the role of the Secretary of State for Northern Ireland post-devolution and on arrangements for considering the implications for Northern Ireland of UK Government policies and legislation in both the excepted/reserved fields and the transferred field.
4. Excepted matters (set out in Schedule 2 to the Northern Ireland Act 1998) cover areas of national responsibility which it is envisaged will always remain the responsibility of the UK Parliament. Reserved matters (set out in Schedule 3 to the Act) are also matters of national policy, although the Assembly can make provision dealing with them, with the Secretary of State's consent and subject to parliamentary control – see paragraph 5 (although it is not expected it will often do so). Some reserved matters, principally policing, security, prisons and criminal justice currently remain within the responsibility of the Secretary of State for Northern Ireland. The Belfast Agreement

envisages that in time these will be transferred to the devolved administration in Northern Ireland. Other reserved matters remain the responsibility of other UK Ministers. Transferred matters – which are all matters that are not excepted or reserved – fall within the responsibility of the devolved administration.

The Role of the Secretary of State for Northern Ireland

5. The Secretary of State for Northern Ireland continues to have overall responsibility for maintaining political stability in Northern Ireland. He wishes to promote the effective working of the institutions set up under the Belfast Agreement and encourage close working relationships between the UK Departments and Northern Ireland Departments. Normally, UK Departments should deal direct with their Northern Ireland counterparts.
6. The Secretary of State continues to have responsibility for a wide range of "excepted" and "reserved" matters. These include security, policing, prisons, criminal justice, public order and elections. He also represents Northern Ireland interests in all matters in the UK cabinet. In financial matters, he has responsibility for giving rounded advice to the Chancellor, in particular regarding any bids for additional resources which may be made by the devolved administration. There are other excepted and reserved matters which continue to be the responsibility of the Lord Chancellor in Northern Ireland (such as judicial appointments and matters relating to the courts).
7. The Secretary of State has statutory responsibility for giving consent to Assembly Bills where these impact on reserved matters other than incidentally, and for forwarding all Assembly Bills for Royal Assent. If the Secretary of State considers that an Assembly Bill is incompatible with international obligations, defence or national security or public order he may decide not to submit it for Royal assent. Similarly if an Assembly bill is considered to have an adverse effect on the operation of the single market, the Secretary of State may not submit it for Royal Assent. For more comprehensive guidance on this issue see DGN No 8 which covers legislation affecting Northern Ireland.
8. So far as "transferred" (or devolved) matters are concerned, the intention is that Northern Ireland Departments and Ministers should maintain and continue to develop strong bilateral links with their Whitehall/Westminster (and Edinburgh and Cardiff) counterparts throughout the normal process of developing policy and preparing legislation. The Memorandum of Understanding and concordats are intended to inform and strengthen these links. But the Secretary of

State will want to be kept informed of any sensitive issues or problems which develop in relations between Whitehall Departments and the Northern Ireland Administration. It would be helpful therefore if Departments could copy to the Secretary of State or the NIO all correspondence between UK Ministers and NI Ministers.

Northern Ireland Office

9. The Secretary of State's Office continues to be known as the Northern Ireland Office, with offices at Millbank and in Belfast. There are also a number of agencies within the Northern Ireland Office including the Northern Ireland Prison Service, Compensation Agency and the Forensic Science Agency for Northern Ireland.

Consulting the Northern Ireland Executive

10. In considering the implications for Northern Ireland, UK Departments will need to distinguish between, but give consideration to, both reserved/excepted and transferred matters (non-devolved and devolved).
11. In relation to reserved or excepted matters, UK Departments have responsibilities which extend to Northern Ireland; the implications for Northern Ireland will need to be considered both in terms of their impact on transferred matters, and also in order to ensure that UK policies will work effectively and be well received in Northern Ireland. For transferred matters, new policy proposals or the exercise of functions by UK Ministers outside Northern Ireland may sometimes have implications for Northern Ireland where, for example, they may call for a comparable response. The Memorandum of Understanding and concordats are intended to promote exchanges of information and prior notification, so as to reduce the scope for surprises.
12. In circulating proposals for collective consideration which may have implications for Northern Ireland, UK Departments should indicate whether the Northern Ireland Administration has been consulted; and if not, how and when they will be consulted or notified. Departments will be aware of the need to consult the First and Deputy First Ministers jointly.
13. The Northern Ireland Office continues to work closely with other UK Departments, as well as with the Northern Ireland Administration, to advise on potential implications for Northern Ireland and guidance on handling of Northern Ireland-related business; to seek to ensure effective consultation in both directions; and to act as "honest

broker" where necessary in any disputes between a UK Department and the Northern Ireland Administration.

Conclusion

14. This note is intended to provide basic information about the role of the Secretary of State for Northern Ireland and to offer guidance to Whitehall officials on the handling of both excepted/reserved and devolved matters relating to Northern Ireland post-devolution. It is not intended to be comprehensive and cannot cover all eventualities. In cases of doubt or where Departments require further assistance they should contact Devolution and Legislation Division (NIO) - either Jonathan Margetts ((020) 7210 6575) or Annabel Jones ((020) 7210 6573).

**NORTHERN IRELAND OFFICE
11 Millbank
January 2001**

*Rec'd by fax*NORTHERN IRELAND OFFICE
CASTLE BUILDINGS
BELFAST BT4 3SG*file*Michael Tatham Esq
PS/Prime Minister
10 Downing Street
LONDON
SW1A 2AA*5* February 2001*Dear Michael***LETTER FROM THE REVEREND DR IAN PAISLEY TO THE PRIME MINISTER:
BLOODY SUNDAY INQUIRY**

The Reverend Dr Ian Paisley wrote to the Prime Minister on 8 January 2001 alleging that Lord Saville had accused him of declining to co-operate with the Inquiry.

By way of background, the Inquiry has been concerned to interview Dr. Paisley to elicit information about the circumstances in which a counter-demonstration by the Democratic Unionist Association, planned for 30th January 1972, was called off a matter of hours before it had been due to take place. Dr Paisley told the Inquiry that he had no personal recollection of the matter, but offered, in a letter to the Inquiry of 6th January 2000, to make inquiries within his Association. The Inquiry took up this offer and, as requested, supplied further particulars to assist these inquiries.

In the event, and despite a subsequent reminder, Dr. Paisley has not further contacted the Inquiry. The Inquiry is therefore at a loss to understand what he means when he says in his letter to the Prime Minister that he has "made available to [the Inquiry] lines of inquiry which should be of assistance to them".



In terms of handling, given the Inquiry's independence it would be inappropriate for the Prime Minister to intervene. The attached draft reply simply indicates that the Prime Minister has drawn the matter to Lord Saville's attention.

I attach draft letters to Dr. Paisley and Lord Saville.

A handwritten signature in blue ink, appearing to read 'Sarah Todd', with a large, stylized flourish underneath.

SARAH TODD

not in Mahix.

DCO

(Helen Jackson, MP)



10 DOWNING STREET
LONDON SW1A 2AA

THE PRIME MINISTER

5.2.01

Dear Helen,
Thank you for
your letter. I am sorry
too about Peter. But we
have to move on & do so in
a way that keeps the peace
process intact.

Yours ever
Tony

file

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

5 February 2001

Dear Paul

TELEPHONE CONVERSATION WITH THE TAOISEACH

The Prime Minister spoke to the Taoiseach this morning.

The Prime Minister said he was concerned by the latest noises from Sinn Fein on policing. Sinn Fein were looking for an express commitment to new legislation. He was not in a position to give this. It made a nonsense of having a review and it would antagonise the SDLP. It was not clear exactly on which issues Sinn Fein wanted legislation but on some of their points (eg the oath and the name) it was simply not possible to give commitments. We could indicate a readiness to legislate if problems arose but no more than this because in practice we did not expect difficulties. It was vital that these negotiations came to a crunch soon. If Sinn Fein kept going round in circles we would end up losing Trimble. Sinn Fein's behaviour also raised questions over their commitment to reaching a deal.

The Taoiseach said his team were similarly frustrated. There had been a meeting this morning to consider a note received yesterday from Sinn Fein. This note amounted to a step backwards, throwing in new issues relating to the McCabe killers and Dail representation. The Irish had concluded that when they met Sinn Fein again today at 1700 they should deliver a pointed message: the two Governments had negotiated painstakingly for four weeks; they had gone as far as was possible; further delays risked losing the Unionists and jeopardising the institutions; Sinn Fein needed to make a decision one way or the other.

The Taoiseach asked how we would react if Sinn Fein were to move forward from yesterday's note and indicate that they just needed a more helpful form of words on legislation. The Prime Minister said we could work further on that if necessary. Jonathan Powell was ready to go over and help sort this out together with Dermot Gallagher. The Taoiseach said the Irish would revert after

their meeting with Sinn Fein this evening. If necessary, officials would need to follow up quickly.

The Taoiseach said he was intrigued by Sinn Fein's current position. McGuinness had seemed very positive when he spoke to the Taoiseach last Wednesday. Even on Friday the Irish team had been optimistic about the prospects for a quick deal. He hoped Sinn Fein's note was simply a try-on.

I am copying this letter to Sir Ivor Roberts (Dublin).

Yours ever

Michael

MICHAEL TATHAM

Paul Priestly
NIO



File
FAXED

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

5 February 2001

Dear Michael

TRIMBLE AND MALLON IN PARIS

The Prime Minister saw your letter of 31 January to John Sawers, as well as Paris telno 53 reporting the successful visit to Paris of the First Minister and Deputy First Minister of Northern Ireland. Your reporting tallied with the very positive feedback he received directly from Trimble and Mallon.

The Prime Minister was pleased the visit went so well. He has written the attached letter to President Chirac which I would be grateful if you could ^{transit} to the Elysée. He has also asked me to pass on his thanks to all those in the Embassy who contributed to the success of this visit.

I am copying this letter (and attachment) to Sherard Cowper-Coles (FCO) and Paul Preistly (NIO).

Yours ever

Michael

MICHAEL TATHAM

Sir Michael Jay KCMG



10 DOWNING STREET
LONDON SW1A 2AA

SUBJECT
MASTER

file

Red on

THE PRIME MINISTER

5 February 2001

Dear Jacques,

It was extremely good of you to spare time to see the First Minister and Deputy First Minister of Northern Ireland during their visit to Paris last week, particularly on what must have been an exceptionally busy day ahead of your dinner with Gerhard in Strasbourg.

David Trimble and Seamus Mallon were both delighted to have met you. More importantly, the attention that you gave them will have sent a powerful signal to the people of Northern Ireland of the strong international support for the peace process. I am most grateful.

Best wishes

Yours ever
Tony

His Excellency Monsieur le President Jacques Chirac GBE

From: Jonathan Powell

Date: 4 February 2001

PRIME MINISTER

You ought to speak to the Taoiseach tomorrow and, probably – to Adams. We will also need to settle the UUP. The Irish think we can be more explicit about legislation without losing the SDLP. Given how short the list of things that require legislation at the end of this note, I am not sure it is such a big problem (except of course the Oath).

Sally

JP

JONATHAN POWELL

CONFIDENTIAL - PERSONAL

1) Jan 13 2001

2) FC

JONATHAN POWELL

From: Bill Jeffrey
Date: 4 February 2001

cc: Secretary of State for
Northern Ireland
(at Hillsborough)

NORTHERN IRELAND: REVIEW OF POLICE LEGISLATION

You asked me to think about whether the Prime Minister could safely offer Adams a public guarantee that there would be legislation following the proposed review. I have discussed this with the Secretary of State.

We would be wary of this, as the Prime Minister obviously was when he spoke to Adams yesterday. There is nothing that we have already logged up as requiring legislative amendment. If we said now that there was definitely going to be a Bill to deal with issues already identified, it would look as though the Government had no confidence that it had got the Police Act right in Parliament only a few months ago. Mallon would be even more suspicious than he already is that we were conceding to Sinn Fein outside Parliament things we hadn't conceded to the SDLP in Committee. Moreover, to commit to identified changes prior to a review would undermine the integrity and open-handedness of the review itself - a point on which, ironically, Sinn Fein would wish to be assured. I don't see how Ministers could answer the question: "How do you know these changes will be necessary when you haven't even conducted the review?"

In the Secretary of State's view, the trick will be to increase Sinn Fein's level of trust that we are serious about the review, and willing to legislate if a need is demonstrated, without giving the kind of prior commitment on specifics that

CONFIDENTIAL - PERSONAL

would unsettle Unionists or Seamus Mallon. (The Mallon factor is significant. For Sinn Fein to boycott Parliament (or even worse the Policing Board) and then appear to steal a march on the SDLP by getting changes to Government legislation, strikes at the heart of constitutional nationalism.)

Thus, if the Prime Minister wanted to moved further in Adams' direction he could:

- offer more positive public words to the effect that the review will be a genuine look at how things are working in practice after 12 months, in the light of which we won't hesitate to legislate if it seems the right thing to do;
- agree that if Sinn Fein were to identify issues on which they are looking for legislative change, he would be willing to confirm publicly that these would be considered alongside others that emerged from the first year's experience;
- offer to say in public that with such a complex set of arrangements, he would be surprised if some amending legislation did not in the event prove necessary, but that that would depend on the review;
- firm up the timetable – he could say that, if the Policing Board assumed its powers on 1 April, the review would begin on 1 April 2002, and the aim would be to complete it by Autumn 2002 and – subject to Parliamentary time being available – to legislate in the 2002-03 Session.

We also need to be clear about Sinn Fein's intentions. Like you, I suspect they are now shaking the tree to see what falls out. Although they complain bitterly about Trimble's internal crises, they are the main beneficiaries, because the weapons issue gives them such leverage over everything else. They may think that they can get further concessions on policing as part of the decommissioning deal, without signing up for the Policing Board. In the Secretary of State's view, it is essential that any further ground given to Sinn Fein should be on the clear understanding that they will definitely sign up.

When he spoke to the Prime Minister yesterday, Adams asked if we could isolate which of the Sinn Fein concerns required legislation and which did not. You will remember that one of the earlier Sinn Fein papers included a long list of amendments, many of which went beyond Patten. But from their original 20 areas, the principal points on which legislation would be necessary are:

- Requiring the new oath to be taken by all officers;
- Any changes in accountability and the powers of the Policing Board;
- Allowing people with criminal convictions to serve as independent members of DPPs;
- Expanding the functions of the Sub-Groups of the Belfast DPP.
- Removing the qualification that police officers' identity numbers should be visible only 'as far as possible';

- Clarifying the position on the name.

It would be possible to identify publicly some or all of these items as ones which would be covered by a review, but it seems better to make a general statement of the kind suggested above. For us to list the Sinn Fein items would be seen, not only by Unionists but by Mallon, as evidence that we were working to a Sinn Fein agenda.

PP Helena Hopkins

BILL JEFFREY

4 February 2001



10 DOWNING STREET
LONDON SW1A 2AA

file
SUBJECT
MASTER

FILED IN

From the Private Secretary

3 February 2001

Dear Paul,

TELEPHONE CONVERSATION WITH GERRY ADAMS

The Prime Minister spoke to Gerry Adams this afternoon.

Adams said he had been working through the issues with the Irish. The problem was over policing. If the UK could not do new legislation up-front there needed to be guarantees. The Prime Minister said we had indicated a readiness to legislate if the problems currently worried about were borne out in practice. Adams said that was expecting too big a leap of faith from Sinn Fein. They needed a post-dated cheque on new legislation. So far they had not got that. The Prime Minister said it made no sense simply to promise new legislation. What if the problems Sinn Fein anticipated did not materialise? Adams said it was not simply a question of Sinn Fein's worries. There was a gap between the Patten recommendations and the UK legislation. The democratic accountability provisions had been gutted out. There was inadequate attention to the need for all sections of the community to have ownership of the new force. There was a need for greater clarity on flags/emblems than was contained in Peter Mandelson's convoluted formula. The language offered on a 12-month review was too elastic and made too much of a virtue out of what ought to be a very standard practice. Given the history, this all needed to be tied down more.

The Prime Minister said there was a negligible gap between the recommendations and the legislation. And there was no question of the accountability aspects having been gutted: the Patten structure was being followed. There were some points (eg: the criteria for DPP membership) where legislative amendment would be necessary to meet Sinn Fein's point. There were others, such as the name, where it was not clear that further legislation would be needed. We would look at that with an open mind after the review. But we could not agree to legislate in a way that would undermine the operational effectiveness of the new force.

Adams said there was the risk of a mess without further government movement. Even if the SDLP rolled (and he was not saying they necessarily would), there would still be a sizeable section of the nationalist community that would not support the new arrangements. It would be foolish to split the nationalists and end up with no more than a restructured RUC. Without Trimble holding the sword of Damocles over the problem, there might be space to sort it out. But once again, we were in a situation of working to false deadlines created by internal UUP processes.

Adams said the need for certainty was not confined to Sinn Fein. The nationalist community generally needed this. The Prime Minister pointed out the SDLP did not want new legislation. They did not want the implicit suggestion that the current legislation was necessarily flawed.

Adams said he would keep working away at the issue. He was seeing the Irish on Monday. The Prime Minister emphasised that he wanted to settle this soon. The current window of opportunity could not be kept open indefinitely. Adams agreed, but said there was a threshold that had to be met in terms of a sustainable police service. The Prime Minister said the key point was that Catholics joined the new service. And the basis for Catholic recruitment was there in terms of the symbols and the democratic accountability provisions (which stood comparison with any other police force). Adams disagreed: US and Canadian policing structures were more accountable. He asked if UK officials could look at the outstanding concerns and isolate those which did and did not require legislation. The problem could be worked on further in the light of that work. The Prime Minister said we would take another look at the question. He repeated that we needed to be conscious of time pressure. At some point we had to start selling a package to the other parties. It would be useful to speak again on Monday. Adams said he would be away all day on Sunday but contactable by mobile.

Yours ever,

ff Helena Hopkins

MICHAEL TATHAM

Paul Priestly
NIO

UNCLASSIFIED
NORTHERN IRELAND: VISIT TO PARIS BY MESSRS TRIMBLE,
From: PARIS

TO PRIORITY FCO
TELNO 053
OF 021634Z FEBRUARY 01
AND TO PRIORITY NORTHERN IRELAND OFFICE, CABINET OFFICE
INFO ROUTINE EU POSTS, WASHINGTON

MALLON AND EMPEY

Summary

1. Successful visit to Paris by First Minister, Deputy First Minister and Minister for Trade. A well-attended presentation on inward investment, and a call on President Chirac the highlights. A call, too, on Moscovici Minister for Europe. Good press coverage. Follow up needed, especially on inward investment.

Detail

2. A delegation from the Northern Ireland Assembly, David Trimble (First Minister), Seamus Mallon (Deputy First Minister) and Sir Reg Empey (Minister for Trade), visited Paris on 31 January. This was the first leg in a European "roadshow" organised by the Industrial Development Board of Northern Ireland (IDB), designed to promote inward investment to the province.

3. The main commercial event was a lunch for existing and potential French investors in Northern Ireland and other financial/commercial players, organised by the IDB and MEDEF International (the international arm of the French employers' federation). This attracted some 200 business people - exceeding both IDB and MEDEF's expectations - with many from the software and IT sectors. Lunch guests were addressed by all three Ministers on the new political structures in Northern Ireland, as well as the favourable economic climate for investment.

4. In the afternoon, the First Minister and Deputy First Minister paid calls on President Chirac (their first on a European Head of State) and Minister for Europe Moscovici. Despite President Chirac's busy diary, on the day of the Franco-German summit in Strasbourg, he gave them 25 minutes and posed for a photo opportunity on the steps of the Elysee. Chirac was positive and supportive, stressing France's interest in and sympathy for Northern Ireland. There was a good and substantive discussion of the economic and political situation, relations with the Republic of Ireland and the US role. Chirac said he supported a stronger French economic presence in the province.

5. With Moscovici, Mr Trimble and Mr Mallon briefed on the state of the negotiations in Northern Ireland, discussed EU issues, including the Euro, the Northern Ireland programme for government and the French ban on British, and in particular Northern Irish, beef (where Moscovici gave the standard line on the need for zero risk). Moscovici reiterated the French government's support for the peace process.

6. In the evening I gave a dinner, together with my Irish colleague, for senior politicians, commentators and industrialists. This was a useful, and for the French guests instructive, discussion on developments in Northern Ireland. A recurrent theme was the role of the European Union in allowing Northern Ireland to achieve a new

Prime Minister

✓
will close to all.

HTT

Can you drop a line to Mr...?

for

Action in hand

(Rie)

identity as a "normal" region among others in Europe.

7. Press coverage for this visit was excellent, with all three Ministers taking time to speak to British, Irish and French correspondents. The pick of the headlines were in the financial dailies "Les Echos" and "La Tribune" - "Northern Ireland counting on peace to rival the Celtic tiger" and "Investors believe in the return of peace in Northern Ireland"; and in the economic section of "Le Figaro" - "The industrial resurrection of Belfast" and "After the bombs the high-tech." BBC Ulster and France 2 covered the call on Chirac for their television news.

Comment

8. This was a good visit. The main messages that Mr Trimble, Mr Mallon and Sir Reg Empey put across - determination that the Good Friday agreement should succeed, no way ahead except forward, the important European dimension to Northern Ireland, and the real advantages of investing there - were exactly right for French audiences. The response throughout, from business, politicians and press was positive. As I discussed with Mr Trimble and Mr Mallon at the end of the visit, we must now keep up the momentum, particularly on inward investment.

JAY

Sent by PARIS on 02-02-2001 16:34
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RESTRICTED
IRELAND: FINE GAEL LEADERSHIP RACE
From: DUBLIN

TO IMMEDIATE FCO
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file

SUMMARY

1. Election of new leader to take place on Friday 9 February. Noonan, still clear front runner, promises shift from Bruton's position of neutrality between unionists and nationalists to a more traditional pro-nationalist policy on Northern Ireland.

Prime Minister

DETAIL

2. The Fine Gael parliamentary party agreed yesterday that the leadership vote(by proportional representation) would take place on 9 February to give other challengers, who have until 5 February to come forward, a chance to campaign.

3. The publicly declared candidates to date remain Noonan, Mitchell and Kenny(see TUR), though some party members have been reported as having doubts that Mitchell will still be a candidate when nominations close on Monday. Chief Whip, Charlie Flanagan (Laois -Offaly) - a strong Bruton supporter and former NI spokesperson - may also enter the race.

4. Noonan has already signalled a proposed policy shift on Northern Ireland. Bruton regularly disputed the Fianna Fail stance that the Government's primary role in negotiation with the British Government was to represent Northern nationalists, arguing that the Irish Government must represent nationalist and unionist views equally. Noonan, by contrast, harking back to the days of Garret Fitzgerald when SDLP supporters in Northern Ireland looked to Fine Gael as the party with which they had the closest affinity in the South, said yesterday that Fine Gael are QUOTE a nationalist party with the generous nationalism that has given rise to the Good Friday Agreement and I would certainly ensure that our position is not misunderstood. QUOTE Bruton was, of course regularly accused by Fianna Fail of being too soft on Unionists, QUOTE John Unionist QUOTE in Albert Reynolds' famous jibe. But while Noonan may take a more pro-nationalist line, Fine Gael's anti- republicanism runs deep and An Phoblacht, the Sinn Fein newspaper, has already attacked Noonan for his anti-republican tirades at party conferences and Mitchell's previous picketing of Sinn Fein.

5. Kenny, today, publicly stated that he shared Noonan's view of Fine Gael's nationalist heritage and the importance of ensuring that it was not misunderstood.

COMMENT

6. There is no doubt that Noonan still remains the front runner with the bookies reflecting this with odds of 2/9 on. But, while his past record as Minister of Health in the last Government was good, his handling of the Hepatitis C crisis at the time has been

ed to call into question his judgement and leadership qualities.
doggedly argued against payment of compensation by the State to
an infected dying mother of 12, even though the Government of the
day had legal advice that the Blood Transfusion Service was
liable.

7. Noonan's proposed shift of emphasis over Northern Ireland may
be no bad thing from our point of view. Bruton has been largely
inhibited from playing a constructively critical role on Northern
issues given the pro-Unionist tar job carried out on him by Fianna
Fail.

8. If the choice comes down to one between Noonan and Kenny, it
will essentially be between a known tough operator and an
unproven, but well liked TD. While the early indications from
private straw polls are that Kenny's support is strong, there is
no guarantee that disaffected Bruton supporters will row in behind
him. There is still time for the race to be complicated by the
entry of other candidates. With a PR system, preferences could
determine the final result. But my money is on Noonan
(Figuratively. With those odds, why bother?).

ROBERTS

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