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PS/SofS (L&B) - BLIS

cc PS/Mr Stanley (L&B) - B
PS/PUS (L) - B
PS/PUS (B)
PS/Sir K Bloomfield - B
Mr Stephens - B
Mr Burns - B
Mr Chesterton - B
Mr Innes - B
Mr Bell - B
Mr Daniell
Mr Hewitt - B
Mr Masefield - B
Mr Shannon - B
Mr Wood - B
HM Ambassador, Dublin - FAX
Mr George, RID, FCO - FAX

MEETING WITH IRISH MINISTERS, 10 FEBRUARY

I submit a full record of yesterday's informal Ministerial meeting in London.

signed

M ELLIOTT

11 February 1988

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CONFIDENTIAL

RECORD OF INFORMAL MINISTERIAL MEETING HELD IN NORTHERN IRELAND
OFFICE (LONDON) ON 10 FEBRUARY 1988

Present:

Mr King
Mr Stanley
Mr Elliott

Mr Collins
Mr Burke
Mr Gallagher

After initial courtesies, Mr King said that he welcomed the slower pace of meetings which had been agreed between the two sides. The possible meeting between the Prime Minister and the Taoiseach in the margins of the European Summit should not be complicated by public statements of position in advance from either side. We were now on course for a full meeting of the Conference early in the week beginning 15 February, perhaps on 16 February, in which event he would make his statement to Parliament on Wednesday 17 February. The Irish side would understand that for reasons of Parliamentary protocol he would not be able to give them full details of his proposed statement at the present meeting. Mr Collins and Mr Burke said that they were happy with this arrangement, and would respect the principle of confidentiality. They had appreciated the line which Mr King had taken at his Press Conference after the meeting on 2 February, and Mr Collins had resisted all attempts by the media to get him to say anything substantial in public.

2. Mr King said that, in strict confidence, Mr Stalker had done a lot of good work. This had been made available to all concerned including the DPP, the Chief Constable, Mr Sampson and Mr McLachlan. Some of the things which he was now saying in public were helpful, in particular his endorsement of the view that there had been no official shoot to kill policy, and that it would be wrong to mount further prosecutions at this stage. However the speculation that there had been some form of Cabinet plot to remove him from the enquiry was absolute rubbish. Mr Stalker's suspension had on the contrary been highly embarrassing for Mr King; he showed the Irish side the book "Stalker: The Search for the Truth" by Peter Taylor, which contained a letter to the Police Review from six ACCs from the Manchester region, demonstrating the attitude taken by the Manchester police and the part which they had played.

3. Mr King said that he would proceed to set out the Government's views on the issues raised by the Irish side at the previous meeting, as they stood at present, beginning with those where there was greatest difficulty for the British side.

4. The Birmingham Six question was an East/West and not a North/South issue. Mr King said that he had passed the Irish views on to Mr Hurd, and read out extracts from Mr Hurd's letter in reply, demonstrating his reasons for asking for a new hearing before the Court of Appeal because of the appearance of new evidence which cast doubt on the original conviction, the likelihood of a further appeal against the latest verdict, and his reasons for ruling out immediately the exercise of the Royal Prerogative, in the absence of any indication from the Court that he should exercise clemency. The verdict of the Court of Appeal had been unanimous, and taken by

three very senior judges. As the question of seeking leave to appeal was still outstanding, the matter was still in a sense sub judice, and the Home Secretary had no scope for further action. Mr King then handed over two copies of the verbatim text of the judgement of the Court of Appeal, which had only just reached the NIO.

5. Turning to the question of publication of the Stalker/Sampson reports, Mr King said that the reports had not been addressed to the Government, but were reports of a police investigation held at the request of the Chief Constable and addressed to him and to the Director of Public Prosecutions. Such reports were never published, and Mr Stalker had himself said that his report should not be published. In his book Mr Stalker had said that he had interviewed some three hundred police officers and taken some six hundred written statements from a wide variety of people; some of these were made under caution, and there was no question of publishing individual statements of this kind. But these statements formed the bulk of the report, together with comment, observations, and narrative. Different handling might prove to be appropriate for the section on organisation and structure of the RUC, which was of direct concern to the Secretary of State for Northern Ireland. Mr King said that similar considerations would surely apply to the Irish Government too in similar circumstances.

6. On the question of further prosecutions, Mr King recalled that Irish Ministers had asked the British Attorney General to revise the view which he had taken. Surely they must understand that Ministers could not override a decision taken by the prosecuting authorities; the Attorney General as a law officer had to be independent of Government, so as to avoid political direction of the courts. Mr Stalker's book, written before the decision of the DPP and the

Attorney General was known, showed that he too thought that the public interest did not now demand prosecutions, and that a decision not to mount further prosecutions would in the circumstances of Northern Ireland be legally and morally justifiable. It was quite wrong therefore to allege that it was inexplicable or outrageous.

7. Mr King then addressed the Irish concern about prior consultation. The Attorney General had made it plain that he had examined all relevant considerations; these included matters of public interest, and these in their turn included matters of national security. It was not the case that he had looked at national security only. The Attorney General had a statutory duty to consider the public interest in any prosecution, and to acquaint himself with all relevant matters, but not to disclose who he had consulted. It was out of the question for the Anglo-Irish process to be extended to cover judicial decisions; it would similarly be out of the question for British Ministers to seek to influence a judge, by injecting some form of Anglo-Irish dimension into his thinking, before he gave his verdict in a particular case. Mr King said that the Attorney General, who was also Attorney General for Northern Ireland, was very familiar with the Anglo-Irish Agreement and with the interests and aspirations of the Irish Government; he was also a very scrupulous man, and if he said that he had considered all relevant matters, he meant all. He was of course bound by certain proprieties governing who he could consult formally or informally, but it would be a mistake to judge that he was not aware of Irish concerns. Mr King said that Irish interests too were surely wider than merely to seek further prosecutions of members of the RUC; they had an interest in the role, performance and morale of the RUC as a whole, and must see the great dangers of damaging RUC morale. To go full speed ahead with prosecutions, with no regard for the consequences, could have this effect.

8. Mr King then went on to speak of areas where what he had to say would be more helpful to the Irish side, and on which he would be prepared to speak in much more detail at the Conference meeting proposed for Tuesday 16 February. At present he would give only an outline of the British view. In respect of disciplinary measures, the process was now moving ahead quickly. He wished to see a very different timetable for the framing of disciplinary charges (at a later stage Mr King said that he was thinking in terms of weeks rather than months) and although he had no absolute control over the speed with which hearings proceeded, he was generally concerned to see that the process moved ahead speedily. Mr King recalled that at the previous meeting he had explained the procedures for hearings and appeals. Another area was the subject of RUC structure and organisation covered in the McLachlan report, relating to the allegation that the Special Branch formed a "Force within a Force" outside proper supervision and control. Work was going ahead rapidly in this area also, and (as Mr Stalker had himself expected) certain steps had been taken already. Mr King quoted the Irish Times leader of that day, which had called for the officers concerned to be "neutralised", so that the events of 1982 should not be repeated. A further detailed area concerned the cross-border incursion; Mr King said that he intended to hand over a paper at the Tuesday Conference, giving details of the events and assurances for the future; it was possible that the paper on this subject which he would give to the Irish would contain more details than he would consider necessary to include in his statement to Parliament.

9. One final area mentioned in the Irish list was extradition. Mr King said that he was very anxious to see the differences between the two sides resolved. The letter from Mr Lenihan had very helpfully clarified matters. The right way forward now was for officials to meet to work out a solution.

10. Mr King concluded his account by saying that even where no direct and helpful answer could be given to the Irish proposals, he was concerned to give as helpful and full an explanation of the reasons as he could. He had sought to do this over the Birmingham six and the position of the Attorney General. Although further criminal proceedings could not be taken, full disciplinary measures were now being considered. There was still a widespread tendency for people to talk of a "shoot to kill" policy and to forget that murder charges had been brought against four people and they had been acquitted. Both sides had a real problem of presentation.

11. In further discussion, Mr Collins touched first on the Birmingham Six. He reminded Mr King that he was speaking on behalf of the British Government as a whole, and asked whether there was really no hope of clemency; he thought that he had detected in Mr King's remarks some indication that the Home Secretary's decision was not a final one. Mr King explained the Home Secretary's independent position in relation to the exercise of the Royal Prerogative. There had been no suggestion of a likely future change in his decision. Mr Collins said that as Minister of Justice he too had similar powers, but he consulted his colleagues in the Irish Government and the responsibility was a collective one; he would at least be guided by the collective views of Government. At a later stage Mr Collins asserted that the British Government did not understand the importance of the Birmingham Six. He was prepared to accept that this matter might not fall directly under the Agreement, but it had a very significant effect on confidence in the system: it smacked of a mighty cover-up. Mr Collins asked Mr King for his own view on the judgement of the Birmingham Six. Mr King said that three of the most eminent judges in the land, pledged to serve the cause of justice, had listened to a most exhaustive hearing containing the best evidence available to the Defence; there was no question of his being able to reach a different and better

conclusion. Indeed he believed that there was a general feeling that the case presented by the Prosecution had been impressive. Mr Collins said that some one hundred and thirty MPs clearly disagreed, because they had signed a motion to this effect.

12. During a discussion on the Attorney General's statement on prosecutions and on the Irish complaint about absence of prior consultation, Mr King suggested that perhaps officials of the two sides ought to examine carefully the extent to which the Anglo-Irish Agreement gave a right to consultation; but it clearly could not apply to matters which were the responsibility of the judiciary and the prosecuting authorities. However it was quite wrong for the Irish side to assert that their interests had not been understood or appreciated. Mr Collins said that on the contrary they believed that the Attorney General had done nothing serious to consider Irish interests. Nobody in Ireland would accept that the position of the Attorney General was as Mr King had explained it; and a very high percentage believed that responsibility for the "cover-up" went all the way up to the British Cabinet. Mr King repeated the expressions of strong personal concern for the welfare for both communities in Northern Ireland and of belief in the value of the Anglo-Irish Agreement which he had used at the previous session of the Conference. It would be entirely wrong for the Irish side simply to assume that the Attorney General was not aware of the political concerns of the Irish Government.

13. During a discussion on disciplinary measures, Mr Collins questioned Mr King's assertion that he would be unable to control the timing of hearings. Mr King explained that the statutory responsibility for laying disciplinary charges rested elsewhere, but he was certainly able directly to influence the timing at this point; it was not possible in the same way to accelerate hearings, because the rights of defendants must be protected, but it was quite

clear that he wished for the speediest possible resolution. Mr Collins inquired about the possibility of a judicial review once the stage of appeal to the Secretary of State had been passed. Would it not be possible for public interest considerations to be brought forward to the Court at this stage? Mr King pointed out that any request for judicial review would probably have to come from the defendant, and that this could for example be on the grounds that the defendant believed that very many others should have been subjected to disciplinary proceedings beside himself. Mr King said that he was himself uncertain whether public interest considerations could be brought in at this stage, and if so how, but he would ensure that this was studied.

14. Mr Burke asked about the third part of the Stalker report, on organisation and structure of the RUC. Could this be published? Mr King said that the documents which he had seen in this area contained certain references which could not be published, but he would personally want to give the Irish side the fullest possible account of this section of the report. Mr Burke asked whether this meant that an edited version would be made public through the House of Commons. Mr King said that something of this kind might be possible at a later stage, but asked that the Irish side should say nothing at all of this possibility. Mr Collins said that he found it extraordinary that Mr King was able to assert, as a member of the British Government, that he was not fully aware of what was going on within the RUC on the basis of the full Stalker/Sampson reports. Mr King repeated that the reports had been given to the Director of Public Prosecutions and to the Attorney General, not to him. Mr Collins asked whether the Police Authority would see the reports. Mr King said that they would see those parts which were relevant to their responsibilities.

15. Mr Collins summarised the view of Irish Ministers. He totally rejected Mr King's surmise that the problem was merely presentational. It constituted a very serious breach of the Agreement, and had done colossal damage to trust and confidence. Speaking personally only at this stage, he wished to say that the British Government had done nothing at all to restore this confidence. The presentation of these matters by the British Government had done more to help terrorists in the island of Ireland, and more to fill terrorist coffers, than anything else for a very long time. Mr Collins said that he spoke in sorrow, deep sorrow, not in anger; but his emotions now were as strong as they had been at the time of the hunger strikes in the 1970s. Quotations from Mr Stalker's recent remarks were irrelevant; Mr Stalker did not understand Ireland and did not understand the terrorist scene. When the Prime Ministers met in the margins of the Brussels Summit they would have "some resolving to do in a very big way".

16. It was agreed that the resumed full session of the Special Conference should take place in Belfast on the afternoon of Tuesday 16 February. The Irish team would arrive in time for a lunch before the meeting, starting at 12.30 or 1.00. The meeting would coincide with Mr Haughey's statement to the Dail on the European Summit, and that statement could not therefore include any reference to Anglo-Irish matters; but it was likely that Mr Haughey would wish to make a statement, and indeed to launch a full debate, on the Anglo-Irish question on the following day, Wednesday 17 February; this debate could go on for a considerable time. Mr King would also wish to make his statement to Parliament on 17 February.

17. There was no suggestion of attempting to agree on any joint Statement for the Press.